CEN

WORKSHOP

AGREEMENT

CWA 15577

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English version

A standardised set of codes with definitions to replace plain text clauses in eInvoice messages for VAT exemptions

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Foreword

This CWA is part of a set of CWAs which has been prepared by the CEN/ISSS Workshop on Interoperability of Electronic Invoices in the European Community, with the view to supporting the effective implementation of the related Council Directive 2001/115/EC of 20 December 2001, with a view to simplifying, modernising and harmonising the conditions laid down for invoicing in respect of Value Added Tax, as well as regulations on electronic signatures and EDI. The set of CWA is as follows:

- Commission Recommendation 1994/820/EC October 1994, proposed revision with the requirements of Directive 2001/115/EC, present day e-Commerce practices and revised definition of EDI Electronic Data Interchange
- The list of invoice content details expressed as UN/CEFACT Core Components
- Recommendation to allow coded identifiers as an alternative to the current unstructured clear text identifications.
- A standardised set of codes with definitions to replace plain text clauses in eInvoice messages.
- Survey of VAT Data Element usage in the Member States and the use of codes for VAT Exemptions.
- eInvoices and digital signatures.
- Storage of Electronic Invoices.
- Guidelines for e-Invoicing service providers.
- eInvoice Reference Model for EU VAT purposes specification.

An executive summary of these CWAs is available at:

ftp://ftp.cenorm.be/PUBLIC/e-Invoicing/CWA/Executive_Summary.pdf

This document proposes the use of coded elements to replace free text used clauses used for Exemptions, Reverse Charges, intra community supply, etc.. in electronic invoices.

The final review/endorsement round for this CWA was successfully closed on 12 June 2006.

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Introduction

The eInvoicing Focus Group report indicated that a problem of interoperability could arise in relation to clauses inserted in invoices, such as Exemption clauses, Reverse charges, margin scheme supplies, and intra-Community supply of New Means of Transport.

Article 22(3)(b), (in the version appearing in Article 28h of the 6th Directive), harmonises the particulars which an invoice must contain for VAT purposes. These include:

- "Where an exemption is involved, or where the customer is liable to pay the tax (i.e. "Reverse Charge"), reference to the appropriate provision of this Directive, to the corresponding national provision, or to any other indication that the supply is exempt or subject to the reverse charge procedure";
- "Where the margin scheme is applied, reference to Article 26 or 26a, to the corresponding national provisions, or to any other indication that the margin scheme has been applied".
- In the case of the Intra-Community supply of a new means of transport (new vehicles), the particulars specified in Article 28a(2) are required.

There is a lack of clarity and consistency concerning the practical implementation of the above requirements and of the potential options that are available to businesses, in individual EU Member States. Published guidance from, and/or the views of, individual EU tax administrations on this issue are, with very few exceptions, non-existent. Furthermore, whereas the Directive offers three potential options (the provisions of the directive, equivalent national provisions, or other indications) for referencing the reason(s) for exemption, there are indications to suggest that certain Member States may be attempting to impose the use of "references to their national legislation only", for both domestic and Intra-Community invoicing.

The absence of an agreed pan-European convention for references to the reason for exemption etc. creates artificial barriers, particularly for cross-border trade, and creates potential risks for tax administrations. For example:

- references to the national legislation of the supplier will have little or no direct meaning to a customer in another EU Member State,

- rules on intra-Community self-billing require the invoice issuer (in this case, the customer) to adhere to the rules of the Member State of the supplier; this imposes an additional burden on the issuer of the self-bill invoice for an exempt supply

- the use of plain text references in this context is ineffective and the absence of a coded alternative that will permit fully-automatic processing, may again act as a barrier to electronic invoicing in the EU, contrary to the objectives of the Directive 2001/115/EC.

Responses received from VAT administrations (see CWA "Survey of VAT Data Element usage in the Member States and the use of codes for VAT Exemptions ") on this issue, where the solution adopted by the automotive industry in Europe was presented, have been very positive and constructive, leading the CEN Workshop group to make the following recommendation:

- Following up on the responses received to the questionnaire, from Member States, to provide further clarifications to EU tax administrations as to the implementation of the coded representation of VAT Exemptions, standardised at EU Level. The coded representations are to be submitted officially through CEN/ISSS/eBES to UN/CEFACT.

- To disseminate the proposed solution to a wider audience from trade and industry, as well as VAT Administrations in the Member States.

1 Scope

The scope of the current CWA is limited to the recommendation brought forward in the eInvoicing Focus Group report to develop codes, standardised at community level, to replace standard clause text being inserted in electronic invoice messages that usually require human intervention for processing.

The present document establishes the reasoning for the use of coded text and gives guidance on how it may be implemented with good practice in Member States where this concept may not have yet been introduced.

The current CWA makes use of the responses and suggestions provided by CWA "Survey of VAT Data Element usage in the Member States and the use of codes for VAT Exemptions" and the list of coded clauses and statements developed and used in the automotive industry (see Annex 1).

2   Normative References

ODETTE Code list ODDC 139(1) Standard Odette Code List

ODETTE Proposed Tax Exemption Reason Code

UN/CEFACT Directory for the INVOIC Commercial Invoice message

3 Definitions, symbols and abbreviations

3.1 Abbreviations

Where applicable these are numbered 3.2 (where there are definitions but no symbols, or vice-versa) or 3.3. Abbreviations should be ordered alphabetically.

For the purposes of the present document, the following abbreviations apply:

ODETTE *Organization for Data Exchange through Tele Transmission in Europe (Automotive industry)*
ODDC *Odette Data Codes*
UN/CEFACT *United Nations/Centre for Trade Facilitation and Electronic Business*

4.   Issues in question

4.1   Background

Article 22(3)(b), (in the version appearing in Article 28h of the 6th Directive), harmonises the particulars which an invoice must contain for VAT purposes. These include:

- "Where an exemption is involved or where the customer is liable to pay the tax (i.e. "Reverse Charge"), reference to the appropriate provision of this Directive, to the corresponding national provision, or to any other indication that the supply is exempt or subject to the reverse charge procedure";

- "Where the margin scheme is applied, reference to Article 26 or 26a, to the corresponding national provisions, or to any other indication that the margin scheme has been applied".

In the case of the Intra-Community supply of a new means of transport, the particulars specified in Article 28a(2) are required.

4.2   Problem statement

There is a lack of clarity and consistency concerning the practical implementation of the above requirements and of the potential options that are available to businesses, in individual EU Member States. Published guidance from, and/or the views of, individual EU tax administrations on this issue are, with very few exceptions, non-existent.

Furthermore, whereas the Directive offers three potential options (the provisions of the directive, equivalent national provisions, or other indications) for referencing the reason(s) for exemption, there are indications to suggest that certain Member States may be attempting to impose the use of "references to their national legislation only", for both domestic and Intra-Community invoicing.

The absence of an agreed pan-European convention for references to the reason for exemption etc. creates artificial barriers, particularly for cross-border trade, and creates potential risks for tax administrations. For example:

- The rules applicable to cross border invoicing are those of the member state where the supplier belongs.
  - In the case where the invoice is issued by the supplier and received by the customer, any references to the national legislation of the supplier will have little or no direct meaning to the customer in another EU Member State. Unless the recipient is aware of all Member States' individual national legislative provisions for such references, there is the risk that, for example, reference to the VAT reverse charge provision or the requirement to account for acquisition tax may be overlooked by the recipient, who is otherwise required to bring the tax to account.
  - For intra community self billing, where the customer issues the invoice but has to apply to the rules of the EU Member State in which the supplier belongs, an additional burden is imposed on the issuer of the self-billed invoice (for an exempt supply, a supply subject to the acquisition tax or reverse charge rules, a margin scheme supply or the intra community supply of a new means of transport), in attempting potentially to identify and apply the national provisions of all Member States and could act as a disincentive to the cross-border sourcing of supplies using self-billing arrangements.

Furthermore, if references to the reasons for exemption etc. are a problem for paper-based invoicing, the difficulties are compounded in an electronic invoicing environment, where invoices may be automatically processed by the recipients' application systems, without human intervention. For example, the use of plain text references in this context is ineffective and the absence of an alternative solution (e.g. coded

representation), that will permit fully-automatic processing, may again act as a barrier to electronic invoicing in the EU, contrary to the objectives of the Directive.

This whole question of "references for exempt supplies" etc. has already been identified as a significant issue by a number of European standards organisations/business sectors, including the European (and global) Automotive Industry, which has resulted in it being identified as a work item for the CEN/ISSS e-Invoicing Workshop.

4.3   Automotive industry proposal

It is the Automotive Industry's view, supported by the Commission (DG TAXUD) during previous discussions, that it is for *business* to determine the choice of reference(s) to be used on invoices (e.g. reference to the Directive, OR to national legislation, OR to any other indication) – i.e. in their joint view, individual Member States cannot impose the use of references to "national legislation" only.

Based upon this premise and, in the interests of greater clarity and transparency of legal requirements in this area, the Automotive Industry has developed a standardised list of references that are based upon references to the 6th Directive*, rather than to national legislation, or to any other indicative means – this list of references also provides a list of "equivalent codes", that will obviate the need for plain text references in electronic invoice messages.

(* It is the Automotive Industry's view that references to the Directive provide a clear, "common denominator" for both Member States' tax administrations and business and circumvent the potential problems associated with the use of references to national legislation, particularly for Intra-EC/cross-border invoicing).

Included in the annex to this CWA is a list of references to the relevant Articles of the Directive, together with:

- definitions for each of the relevant Articles, and

- the proposed coded representation for each reference

The codes developed by the automotive industry, representing specific references to the Directive, make it possible to process them without manual intervention, i.e. reading and checking the reference. Currently, the UN/EDIFACT TAX segment is being used either at invoice line level or at invoice summary level, where an extension to the code set for UN/EDIFACT Data Element 5305, Tax/duty/fee category, is used to specify the relevant reference in coded form.

For example, on an invoice covering the Intra-Community supply of goods, a paper invoice would show "Article 28c(A) of Directive 77/388/EC" (i.e. the 6th VAT Directive, as amended by the Invoicing Directive [2001/115/EC]). An electronic invoice would simply declare the corresponding code, "AAC"; example: TAX+7+VAT+++:::21+AAC'

4.4   Comments on the Industry proposal

The code list/definitions have been developed on the basis of providing the *minimum* set that is considered to be sufficient to identify the "generic" reasons for exemption, for tax administration purposes. No attempt has been made to consolidate all existing national references into a single list, since this would effectively preserve the present status quo and be contrary to the objectives of the Invoicing Directive in the facilitation of European business.

The code list *may* subsequently be added to, subject to justifiable and demonstrable reasons being given as to why further codes/definitions need to be included. (Note: the "minimum set" approach has been taken, since it is considered to be easier to add further codes, if necessary, rather than attempt to remove existing codes afterwards).

The maintenance of the code list and the definitions, which are now part of the automotive industry ODETTE code sets, used in the Global Invoice version 2 and other electronic messages, are to be submitted to UN/CEFACT through CEN/ISSS eBES group for ongoing maintenance.

The solution adopted by the automotive industry is certainly capable of use in electronic invoicing. Although developed using the UN/EDIFACT data structure syntax, it is now being specified in a syntax neutral way by UN/CEFACT as part of the development of the cross industry invoice and order transactions. The proposed solutions will be fully-portable across other (e-invoicing) standards. It offers a clear and simple solution to the present problems of "references for exemptions etc.", which will facilitate both European business and tax administrations alike, especially for Intra-EC/cross-border invoicing.

4.5   Summary of responses to questionnaire

In principle, Member States have a positive attitude to the proposal to introduce standardised list of references that are based upon references to the 6th Directive*, rather than to national legislation, or to any other indicative means – this list of references also provides a list of "equivalent codes", that will obviate the need for plain text references in electronic invoice messages.

Some 15 Member States and Switzerland have responded. Some of the additional comments are given here below:

- One Member State indicates that the 14 codes that are currently suggested are too many and should be reduced

- One Member State is proposing that reference to the national legislation should be provided as well

- All except one Member State have responded positively to the proposal, and one has indicated they have still to decide on the proposal

- Several Member States are requesting further clarification on how to work with the proposal

- One Member State is proposing the addition of a code for a new clause

4.6   Recommendation

In line with the Automotive Industry initiative and in view of the positive response received from the Member States (see questionnaire of the CWA ""Survey of VAT Data Element usage in the Member States and the use of codes for VAT Exemptions) on the proposal to use coded representation for stating VAT exemptions in electronic invoices, the CEN Workshop proposes the following recommendations:

4.6.1   Follow up on responses

The CEN eInvoice Workshop recommends to follow-up on the responses that have been received from Member States on the questionnaire to provide further clarification to tax administrations as to the implementation of the coded representation of VAT Exemptions, in a move towards greater harmonisation and standardisation. It is imperative NOT to allow the extension of the Code list/Exemption Clauses to include individual national clauses, since this would limit the benefits to the majority of cross border users.

4.6.2   Dissemination of the solution

The CEN eInvoice Workshop recommends that initially the proposal be disseminated by a CEN Workshop to a wider European audience, to include tax administrations in the Member States and EFTA countries, industry sectors, trade and business organisations such as GS1 for retail and distribution, EDIFICE for the electronic industry, CIDX for the chemical industry, Eurofer for the steel industry, etc..
a) to get formal approval of the code list from interested parties mentioned above which may require some amendments to reach consensus;
b) submit approved code lists for official translation into Member State languages;
c) prepare explanatory documentation to support the dissemination of the code list.

4.7   Annex 1 Proposed Tax Exemption Reason Code

This code list contains codes referencing to the Sixth EU directive regarding tax exemption and special procedures. It is proposed to be harmonised in a CEN/ISSS Workshop Agreement for European use and progressed as a proposal to the user community and VAT administration after official translation into Member State languages.

On formal approval, a Data Maintenance Request with the required codes shall be submitted through CEN/ISSS/eBES, the official European Entry point into UN/CEFACT to be added to an appropriate UN/EDIFACT code list to facilitate a homogeneous implementation of the Directive's provisions throughout Europe.

AAA Exempt – Article 15 of Directive 77/388/EC

Exemption of exports from the Community and like transactions and international transport.

To be used **when invoicing goods which are delivered to a non-EC country and when invoicing certain services, where these are directly connected with the export of goods.**

AAB Exempt – Article 16 of Directive 77/388/EC

Special exemptions linked to international goods traffic.

To be used **when invoicing goods which are imported from a non EC country into an approved warehouse, or free zone, within the EC area, and held in warehouse under VAT suspension. This arrangement may also include VAT suspended goods movements between different approved warehouses within the EC provided that the goods are re-exported from the warehouse to a non-EC country. Should also be used for transport costs included in customs value.**

Example: a company in EC country A imports goods from US and stores them in an approved warehouse, under VAT suspension. The EC company A then sells the goods to a company in EC country B and transfers the goods from the warehouse in country A to a warehouse in country B, still under VAT suspension.

Then the company in country B sells and delivers the goods to a company in Russia.

AAC Exempt – Article 28c(A) of Directive 77/388/EC

Exempt Intra-Community supplies of goods.

The VAT liability for the supply of goods from a VAT registered business in one EU Member State to a VAT registered business in another EU Member State is shifted from the vendor to the person acquiring the goods.

In a manual invoicing environment, the vendor justifies not accounting for VAT at the rate prevalent in the EU Member State in which he belongs by quoting as part of the VAT invoice for the supply:

- the VAT registration number of the person acquiring the goods - in the country in which the supply is received; and

- a reference to Article 28c(A) of Directive 77/388/EC.

This code is intended to perform the same function for an electronic invoice as would be performed by the reference to Article 28c(A) of Directive 77/388/EC in a manual invoice.

In Article 28c(A) of Directive 77/388/EC and in most EU Member States, such supplies are treated as exempt from VAT. In the UK and the Irish Republic, however, such supplies are treated as

effectively "zero rated" for VAT.

It is also important to note that in order to be accurately described by this code, goods have to be dispatched or transported by or on behalf of the vendor or the person acquiring the goods.

AAE Reverse Charge – Article 28b(C) (D) (E) (F) of Directive 77/388/EC

Reverse Charge Intra-Community transport services.

To be used **when invoicing the transport of goods within the EC and ancillary services to these transports, services rendered by intermediaries, services on movable tangible property, where the customer is registered for VAT in a different EC country to that of the supplier.**

AAF Exempt – Article 26b(B)) of Directive 77/77/388/EC

Exemption under the special scheme for investment gold.

To be used **when invoicing investment gold to a customer in another EC country, where the special scheme for investment gold is applicable.**

AAG Exempt – Article 13 of Directive 77/388/EC

Exempt within the territory of the country.

To be used **when invoicing, within the supplier's own country, goods and services that are exempt from VAT under the national legislation – e.g. banking-, insurance services, hospital care, medicine and education.**

AAH Margin Scheme – Article 26a of Directive 77/388/EC

Special arrangements applicable to second-hand goods, works of art, collectors items and antiques.

To be used **when invoicing second-hand goods, works of arts, collector's items and antiques where the margin scheme is applicable.**

AAI Margin Scheme – Article 26 of Directive 77/388/EC

Margin scheme for travel agents

To be used **when invoicing for travel arrangements where the margin scheme for travel agents is applicable.**

AAJ Reverse Charge – Article 26b(F) of Directive 77/388/EC

Reverse charge procedure applying to supplies of gold.

To be used **when the supplier of the investment gold, which would otherwise be exempt from VAT, has exercised the right to "option to tax", under the Article**

26b(C) of directive 77/388/EC. Under this "option to tax" arrangement, the customer is liable to account for VAT on supply, under the reverse charge procedure.

AAK Reverse Charge – Article 21 1.a of Directive

77/388/EC

Reverse charge procedure. Special scheme for non VAT registered companies within an EC country in case of domestic supply of goods and services to a VAT registered purchaser in that EC country.

To be used **when invoicing goods and certain services, from a supplier (a foreign entity) who is not established and registered for VAT in an EC country, to a customer who is VAT registered in that EC country.**

AAL Reverse Charge Exempt - Article 16 (1) 2nd subparagraph of Directive 77/388/EC

Reverse charge procedure when goods cease to be covered by warehousing arrangements.

To be used **when invoicing goods from a non-EC country which have been held in an approved warehouse and should be removed for consumption in an EC country (i.e. not re-exported as in** AAB).

Example: still using the example above (AAB) as a base the company in country A sells and transfers the goods to a company in country B but in this case the company in country B sells and deliver the goods to EC country C for domestic consumption.

AAM Exempt New Means of Transport – Article 28a(2) of Directive 77/388/EC

Intra-Community supply of a new means of transport.

To be used **when invoicing a supply of new means of transport to a customer in another EC country.**

AAN Exempt Triangulation – Article 28c(E)(3) of Directive 77/388/EC

Triangulation

To be used **when invoicing by a company who is the middleman in a triangulation chain i.e. goods trade between three parties in different EC countries and the goods delivered from the first part to the last part.**

AAO Reverse Charge – Article 9.2.e of Directive 77/388/EC

Reverse charge procedure for services such as consultant, lawyer, information, ADB and translation.

To be used **when invoicing taxable services for example consultant-, lawyer-, auditor-, translation- and information services, ADB and preparing systems and programs, advertising to EC countries and certain non EC countries.**