

10 THINGS

YOU NEED TO KNOW

ABOUT

ELECTRONIC INVOICING SYSTEM

IN

SERBIA

JPM

JANKOVIĆ POPOVIĆ MITIĆ

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Publisher: JPM Janković Popović Mitić
NBGP Apartments, 8a Vladimira Popovića street
www.jpm.rs

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Design and prepress: JPM Janković Popović Mitić

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Since the enactment of the Law on Electronic Invoicing (the “Law”) in May 2021, the beginning of the application of the electronic invoicing system has been awaited. The deadlines differ depending on the subject who is issuing the electronic invoice (the “e-invoice”), and on the subject who is receiving and further managing the e-invoice.

The first phase, where the application of e-invoices shall be mandatory only in transactions carried out between public sector entities (public sector to public sector transactions), as well as for private sector entities when issuing e-invoices to public sector entities (private sector to public sector transactions), was initially planned for 1 January 2022, but under the subsequent amendments of the Law, the deadline for commencement of the first phase has been postponed to 1 May 2022, so that both the public and private sector entities may organize their businesses and prepare for this significant change in running their business and invoicing systems.

The second phase, that encompasses mandatory issuance of e-invoices by entities in public sector to entities in private sector (public sector to private sector transactions), as well as the corresponding obligation of the entities in private sector to receive and keep the e-invoices issued to them (by subjects in public or in private sector), is planned for 1 July 2022.

Finally, the third phase, introducing mandatory e-invoices in transactions between the entities in private sector (private sector to private sector), completing the range of mandatory electronic invoicing so that it encompasses all commercial entities, public and private, that fall under the scope of application of the Law, is planned for 1 January 2023.

Besides the mandatory electronic invoicing regime, the Law also introduces the obligation of electronic recording of VAT calculation, commencing in: (i) the first phase for entities in the public sector; and in (ii) third phase for all other entities that fall under the scope of this obligation pursuant to the Law.

Since the Law came into force, the Serbian Government and mostly, the Serbian Ministry of Finance, are being devoted to the goal of setting up an adequate and functional legal environment for application of electronic invoicing system and electronic recording of VAT calculation through adoption of multiple bylaws that regulate different aspects of these matters in more details – from mandatory content of e-invoice, format and manner of delivery of accompanying documentation through the electronic invoicing system, procedure and manner of registration to the electronic invoicing system, procedure and manner of electronic recording of VAT calculation, through application of recognized standards of electronic invoicing, to closer conditions for provision of services connected to electronic invoicing by so-called “Informative Intermediary” – specific service providers introduced under the Law. The Ministry of Finance has also been posting news on developments in this field on its official website, where it also made available registration instructions and technical instructions, and a demo version of e-invoice that may prove to be helpful and informative for future users of electronic invoicing system, available at the following link:
<https://demoefaktura.mfin.gov.rs/login>





In this overall rush to meet the deadline and to properly prepare for commencement of this new era in invoicing, we have prepared a short overview and explanation of the scope of application, most important notions and obligations set forth by the Law.

1

WHAT IS AN E-INVOICE?

An e-invoice is defined as a request for payment based on transactions made for a fee (or without remuneration if the invoice is to be issued for the subject transaction under applicable laws), any other document that affects the payment amount (e.g. credit notes, debit notes, reverse invoices), as well as the invoice issued for advance payments.

An e-invoice shall be issued and further handled in specific format - XML format that allows automatic electronic data processing through the electronic invoicing system.

2

FOR WHAT TYPE OF TRANSACTIONS IS E-INVOICE ISSUED?

E-invoice is issued in regard to transactions between the entities in private sector and/or entities in public sector, involving trade (i.e. delivery) of goods and/or provision of services, including the advance payments.

3

WHO IS OBLIGED TO ISSUE E-INVOICES AND/OR WHO MAY OPT TO BE INCLUDED IN THE ELECTRONIC INVOICING SYSTEM?

Mandatory issuance of e-invoices applies to:

- Entities in public sector – meaning: (i) general state level in terms of the Law on Budgetary System (Republic of Serbia, i.e. Government, governmental bodies, autonomous provinces, social security public institutions, etc); and (ii) public companies in terms of the Law on Public Companies (public utility companies, and similar).
- Entities in private sector – meaning: (i) VAT taxpayers; and (ii) tax (i.e. VAT) proxy of a foreign subject in the Republic of Serbia, in relation to respective transactions with subjects in public or private sector.

Apart from entities for which the issuance of e-invoices is mandatory, there is also a category of entities that are not generally obliged to issue e-invoices, i.e. to use electronic invoicing system, but if they opt to do so they are under the obligation to use this system and issue e-invoices and are treated as other entities in the private sector for the period covering at least the year in which they have applied to use the electronic invoicing system and for the following year.

These, so – called voluntary users of electronic invoicing system are: (i) taxpayers of the self-employment income tax (in accordance with the Law on personal income tax); and (ii) taxpayers of the corporate income tax (in accordance with the Law on corporate income tax), which are not taxpayers of VAT, and who applied to use electronic invoicing system.

4

WHAT ARE THE EXEMPTIONS FROM THE OBLIGATION TO ISSUE E-INVOICE ?

There is no obligation to issue an e-invoice in the following cases:

- Retail trade and respective advance payments, which is carried out in accordance with the Law on Fiscalization;
- Contractual obligations that refer to fund users from international framework agreements; and
- Procurement, modernization and overhaul of weapons and military equipment, and similar.

5

WHAT ARE THE ELEMENTS OF E-INVOICE/WHAT DOES E-INVOICE CONTAIN?

When assessing the mandatory elements of an e-invoice, the provisions of applicable Serbian VAT Law and accompanying VAT Rulebook must be taken into account in addition to the provisions of the Law and respective rulebook that regulates the mandatory elements of e-invoice.

Below is the chart comparing the mandatory content of an invoice pursuant to applicable VAT Law, and of an e-invoice pursuant to the Law and its respective rulebook. Marked in **BOLD** are the elements of invoice, i.e. e-invoice, that are not correspondingly prescribed under both laws.

For as long as the applicable VAT regulations are not aligned with the e-invoicing regulations, it would be prudent for the VAT taxpayers to observe and include in their e-invoices the elements prescribed under both laws.

Mandatory elements of invoice VAT Law	Mandatory elements of e-invoice The Rulebook on elements of e-invoice
Name, address and TIN of the taxpayer - issuer of the invoice;	Name, address and TIN of the issuer of e-invoice, in accordance with updated data from the competent register;
Place and date of issuance of the invoice and invoice number;	Unique number of the issuer - public funds user (abbreviated in Serbian: JBKJS), in cases when the issuer is a user of public funds registered on the list of users of public funds from Art. 8, paragraph 1 of the Law on Budgetary System;
Name, address and TIN of the taxpayer - invoice recipient;	Business account of the issuer;
Type and quantity of goods delivered or type and volume of rendered services;	Name, address and TIN of the recipient of e-invoice, in accordance with updated data from the competent register;
Date of trade of goods and services and amount of advance payments;	JBKJS of the recipient, in cases when the recipient is a user of public funds registered on the list of users of public funds from Art. 8, paragraph 1 of the Law on Budgetary System;
Amount of tax base;	Date and number of e-invoice;
Applicable tax rate;	Date of advance payment, for e-invoices for advance payments, i.e. date of trade of goods/ provision of services, for e-invoices that are not issued for advance payments;
Amount of VAT calculated for the tax base;	Code and/or name of goods, i.e. services for each item from e-invoice, and quantity and applicable unit of measure for delivered goods, i.e. volume of provided services for each item from e-;
Note on the provision of the VAT Law which is the ground for exemption from VAT calculation;	Value of each item from e-invoice;
Note that the trade of goods and services are subject to charge system.	Total amount of e-invoice;
	Amount of advance payments, if any were made in regard to one or more items from e-invoice.

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WHAT ACTIVITIES DOES HANDLING OF E-INVOICE INVOLVE?

Handling of e-invoices involves several activities, whereas the particular activities naturally depend on whether the entity is the issuer or the recipient of the e-invoice:

- Issuance and sending of e-invoice to the recipient;
- Receipt of e-invoice and its acceptance or rejection- in this regard: (i) if an e-invoice is neither rejected nor accepted by the subject from public sector within 15 days from its receipt, such e-invoice shall be deemed accepted; or (ii) if an e-invoice is neither rejected nor accepted by the subject from private sector within 15 days from its receipt, the recipient shall be notified one more time on issuance of the e-invoice, and if the recipient remains passive for additional 5 day period, such e-invoice shall be deemed rejected;
- Keeping of e-invoice – e-invoices issued or received by subjects in public sector are kept permanently in electronic invoicing system, while the e-invoices issued or received by subjects in private sector are kept for 10 years following the year of issuance of e-invoice in electronic invoicing system, or in the system of engaged Informative Intermediary.

Besides these general activities with e-invoices, entities using electronic invoicing system must comply with certain additional obligations:

- To process personal data only for the purposes determined under the applicable laws and to keep this data safe in accordance with the Law on Personal Data Protection;
- In case of inspection, to make available to the competent inspector requested data on its business activities, its business related documentation, etc.

7

IS IT POSSIBLE TO SEND ACCOMPANYING DOCUMENTATION WITH THE E-INVOICE?

Yes, the entities may send accompanying documentation (e.g. contract, delivery notes, interim payment certificates and similar) to the recipient.

8

ARE THE ENTITIES OBLIGED TO ACT INDEPENDENTLY OR THEY MAY ENGAGE AN INTERMEDIARY?

The entities are permitted to engage intermediaries – so called Informative Intermediaries (legal persons authorized to provide these services on the basis of previous consent issued by the Serbian Ministry of Finance), with certain limitations in regard to subjects in public sector.

Additionally, in case that an entity from the private sector receives e-invoices issued by a foreign entity in accordance with the European invoicing standard, the receipt of such invoices must go through the Informative Intermediary, thus such entities would need to engage Informative Intermediary at least in regard to this service.

The entities engaging the Informative Intermediary should keep in mind that the Informative Intermediaries cannot be held responsible for the content of e-invoice and accompanying documentation and are only liable in case that it endangers the safety and/or functioning of electronic invoicing system by its activities related to issuance, recording, processing, sending, receiving and/or keeping of e-invoice and/or accompanying documentation.

9

UNCLEAR ISSUES IN REGARD TO OTHER INVOICES ISSUED BY FOREIGN ENTITIES

As mentioned in the previous point, the Law explicitly regulates the possibility of receipt of e-invoices issued by foreign entities in accordance with the European standard of e-invoicing, since it is complementary to the Serbian standard of e-invoicing (or vice versa).

However, the treatment of invoices issued by domestic entities to foreign entities, and especially the treatment of the invoicing in transactions with the entities that originate from the countries that have e-invoicing systems based on some other standards – not European standard, or from the countries that do not recognize e-invoices remains unclear – whether the invoices in these cases are going to be issued in accordance with old invoicing system (regular – not e-invoices) or the lawmaker shall introduce further provisions in this regard, is still to be seen.


10

WHEN DOES THE OBLIGATION OF ELECTRONIC RECORDING OF VAT CALCULATION EXIST?

In addition to mandatory e-invoices and use of electronic invoicing system in this regard, the Law prescribes specific obligation of electronic recording of VAT calculation in electronic invoicing system for certain subjects – for tax debtors (persons who are not taxpayers but are treated as debtors of respective tax by the law) of VAT who are VAT taxpayers (in general), as well as for other subjects in public and private sector, even those who are not VAT taxpayers, except for:

- VAT taxpayers, for delivered goods and/or rendered services, including respective advance payments, for which e-invoice is issued;
- Tax debtors for imported goods;
- Retail trade conducted by VAT taxpayer, and advance payment thereof, when the specific case of trade does not fall under the obligation of issuance fiscal bill in accordance with the Law on Fiscalization (e.g. lawyers who are VAT taxpayers, insurers, etc); and
- VAT taxpayers for goods delivered/services rendered without remuneration, in case that there is no obligation to issue invoice for the same.

As indicative from the above, the Law basically tries to ensure that the entire trade subject to VAT is covered and registered in the electronic invoicing system – hereof, all activities that are not subject to e-invoicing, fiscal bill, or recording by customs authorities/other public authority, but may lead to application of VAT are covered and registered in the electronic invoicing system.



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