

NATIONAL ASSEMBLY

November 6, 2020

PLF FOR 2021 - (N ° 3360)

Commission	
Government	

Adopted

AMENDMENT

NOT o II-3211

presented by
the government

ADDITIONAL ARTICLE**AFTER ARTICLE 46, insert the following article:**

I. - Under the conditions provided for in article 38 of the Constitution, the Government is authorized to take by ordinance any measure falling within the scope of the law necessary for the improvement and modernization of management by companies as well as that the collection and control by the administration of value added tax by:

1 ° Generalizing the use of electronic invoicing and modifying the terms and conditions of this use;

2 ° Establishing an obligation of dematerialized transmission to the administration of information relating to transactions carried out by persons subject to value added tax which do not come from electronic invoices, or that they are complementary to those which result from them or that they relate to transactions that are not subject to electronic invoicing or that are not subject to the invoicing obligation for the purposes of value added tax.

II. - The ordinance is taken within a period of nine months from the promulgation of this law. A ratification bill is tabled in Parliament within three months of the publication of this ordinance.

SUMMARY STATEMENT

Article 153 of the finance law for 2020 provides, on the one hand, for the compulsory issuance of invoices between those subject to VAT in a dematerialized manner and, on the other hand, for the transmission to the tax authorities of the data appearing on these bills.

A report was submitted to Parliament on the conditions for this implementation of these obligations (identification and assessment of technical, legal and operational solutions, operational constraints of the stakeholders).

The obligation would be implemented as follows:

- from 2023, all companies will have to be able to receive an invoice electronic (obligation to receive), where applicable via the public platform made available free of charge by the State: this step is necessary to enable companies to quickly reap the expected gains from electronic invoicing;

- gradually between 2023 and 2025 depending on the size of the companies, an issuance obligation invoices in electronic form, such as the progressive obligation put in place for public sector suppliers:

- o January 1, 2023 for large companies,

- o January 1, 2024 for mid-sized companies,

- o January 1, 2025 for SMEs and VSEs.

The aforementioned report concludes that, in order to fully meet the four objectives set by the aforementioned article 153 (fight against fraud, improvement of service to users subject to VAT by the medium or long term pre-filling of VAT returns, improvement of the competitiveness of companies, ongoing knowledge of the activity of companies), the only inter-company invoicing data concerning domestic transactions does not make it possible to reconstitute the situation of a company in terms of VAT and therefore to fight effectively against fraud.

Indeed, knowledge of transactions with foreign operators is essential, in particular in the context of the fight against carousel fraud (VAT fraud organized between several companies established in different States of the Union to obtain reimbursement by a State of 'a tax that has never been paid up front). The transmission of data concerning transactions to individuals (B2C) is also essential to assess the amount of VAT to be remitted by a company. Finally, the status of the payment of an invoice is necessary to determine the due date and deductibility of VAT for the provision of services.

Also, the implementation of electronic invoicing ("e-invoicing" must be accompanied by an additional obligation to transmit data ("e-reporting") not subject to the obligation of electronic invoicing as defined in the above-mentioned article 153: for example, transactions

between professionals and individuals ("B2C"), transactions with foreign operators and bill payment status.

Data relating to transactions with individuals will cover the same field as those transmitted by electronic invoicing and will be supplemented by other data necessary for the tax administration (information on payment, etc.). All of this data can be sent in aggregate form.

The combination of electronic invoicing and the transmission of additional data will provide the administration with knowledge of all commercial operations carried out by companies subject to VAT. It will make it possible to cross-check between purchases and sales and thus better fight against tax fraud, while making it possible to pre-fill VAT returns.

Benefits are also expected for companies; improvement of competitiveness, follow-up of the invoice (receipt, payment, etc.), securing of payment deadlines, archiving, etc., and the simplification of declarative obligations with the pre-filling of VAT declarations may be considered in the long term.

A new phase of consultations is planned, after the submission to Parliament of the report provided for in Article 153 mentioned above, with the various stakeholders (companies and their representatives, professionals in the electronic invoicing sector, administrations) to ensure implementation of the obligation under the best conditions.

The time limit set for taking the order will allow the elements resulting from this consultation to be taken into account in the texts.