



## ANEXO: CORRESPONDENCIA COM SR: COMISSÁRIO

### Perguntas colocadas ao Sr. Comissário Laszlo Kovacs

From: Movimento Cívico IVAcomRecibo [<mailto:info@IVAcomrecibo.com>]

Sent: domingo, 19 de Outubro de 2008 12:11

To: 'renate.wagner@ec.europa.eu'; 'edith.izsak@ec.europa.eu'; 'stephen.bill@ec.europa.eu'

Subject: Request for clarification from the European Commission: article 66 of the 6th VAT Directive

Dear Mr Laszlo Kovacs,

My name is Sofia Santos and I am writing on behalf of the Portuguese Civic Movement "IVA com Recibo" (which stands for "VAT with Receipt"), currently representing more than 6,000 Portuguese citizens (being the majority entrepreneurs). This Civic Movement is collecting signatures for a petition which will be sent to the Portuguese Parliament in the beginning of November 2008. This petition intends to promote a debate on the Portuguese parliament about the possibility of making VAT chargeable after the invoice is paid and not after the invoice is issued. We defend that:

- VAT should be chargeable after the invoice is paid
- companies could choose to be part of such a system
- and that this system should be targeted at SMEs

Article 66 of the 6th VAT Directive reads: *"By way of derogation from Articles 63, 64 and 65, Member States may provide that VAT is to become chargeable, in respect of certain transactions or certain categories of taxable person at one of the following times: (a) no later than the time the invoice is issued; (b) no later than the time the payment is received; (c) where an invoice is not issued, or is issued late, within a specified period from the date of the chargeable event."*

Presently in Portugal the general system (applicable to all VAT taxpayers) uses alternatives (a) and (c) of article 66. Alternative (b) is used solely regarding construction services rendered to public entities and supplies made to agricultural cooperatives ("farmers' co-op").

Under this context, and taking into account that other countries such as UK, Ireland, France (between others) have those systems, we would like the following clarification from the European Commission:

- 1- Can the Portuguese Parliament decide to change the Portuguese internal rules and generally use alternative (b) (applying it to all VAT taxpayers)?
- 2- Can the Portuguese Parliament decide to change the Portuguese internal rules and use alternative (b) only for SMEs?
- 3- Or, in order to implement such a change, Portugal needs to ask the European Union for a permission/derogation (both in cases 1 and 2 above)? Please note we do not intend to implement any restriction to the VAT deduction regime of article 167 in consequence of the application of article 66 (b).

We are looking forward to hearing from you at your earliest convenience.

With kind regards,

**Movimento «IVA com recibo»**

Este movimento aspira a uma sociedade produtiva, lucrativa e justa.

[www.ivacomrecibo.com](http://www.ivacomrecibo.com)

LÁSZLÓ KOVÁCS  
MEMBER OF THE EUROPEAN COMMISSION

B-1049 BRUSSELS

11 November 2008  
SB/za D(2008) 438

Dear Ms Santos,

Thank you for your email of 19<sup>th</sup> October regarding the use of Article 66 of the VAT Directive 2006/112/EC. Article 66 of that Directive states that:

*"By way of derogation from Articles 63, 64, and 65, Member States may provide that VAT is to become chargeable, in respect of certain transactions or certain categories of taxable persons at one of the following times:*

- a) no later than the time the invoice is issued;*
- b) no later than the time the payment is received;*
- c) where an invoice is not issued, or is issued late, within a specified time period from the date of the chargeable event"*

First you ask whether Portugal can decide to change their internal rules and generally use alternative b), and apply this to all taxpayers. The answer to this question is that they would not be able to do this without derogation under Article 395 of the Directive which would need to be unanimously approved by all Member States. This is because Article 66(b) acts as derogation from the general rule, and not as a general rule in itself, as it only applies to certain transactions or certain categories of taxable persons. Although the Commission looks at each derogation request on its own merits, it would find it difficult to justify proposing such derogation.

Secondly you ask whether Portugal can decide to change their internal rules and use alternative b) only for SMEs, and the answer is that they can. In this instance, Portugal would not need to ask the European Union permission for derogation.

Yours sincerely,



*Ms. Sofia Santos*  
Mail to: [info@ivacomrecibo.com](mailto:info@ivacomrecibo.com)

