



THE BAR
OF IRELAND

The Law Library

**SUBMISSION TO
REVENUE ON FOOT OF CONSULTATION
ON REAL-TIME DIGITAL REPORTING & ELECTRONIC
INVOICING**

12 January 2024

INTRODUCTION

The Council of The Bar of Ireland is the accredited representative body of the independent referral Bar in Ireland, which consists of members of the Law Library and has a current membership of approximately 2,150 practising barristers. The Bar of Ireland is long established, and its members have acquired a reputation amongst solicitors, clients and members of the public at large as providing representation and advices of the highest professional standards. The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

The Council has prepared this submission in response to the public consultation on modernizing VAT administration for the future and in particular real-time digital reporting and electronic invoicing.

BACKGROUND TO THE PROFESSION

All members of the Law Library are solo self-employed individuals, and the Code of Conduct for the Bar of Ireland prohibits incorporation or the forming of partnerships by members. Noting that the VAT threshold for the provision of services is currently €37,500, most barristers will be registered for VAT, and even those in their early years in practice who may not reach the threshold, may choose to register for VAT regardless.

Any individual barrister, depending on their area of practice, may be engaged in the supply of B2B services, B2C services or B2G services, either exclusively or in combination. From time to time a barrister might supply legal services to a private individual, business or government body outside the State (such as the UK or the US) or to such individuals, entities or bodies in other member states. As such, the services provided by members of the Law Library are likely to cover the full range of possibilities to which the consultation document refers.

The Bar of Ireland represents barristers from their first year in practice to their last and across all specialisms, practice areas and geographical locations, and there is no one 'typical' barrister. Certain generalisations can, however, be made. All barristers are sole traders/solo self-employed individuals with the result that there are no centralised billing, invoicing or accounting services provided by the Council or by any other administrative department. Each barrister makes their own arrangements in terms of the administration of their practice, including VAT returns. It is not unusual for barristers to have the services of a secretary (either on an individual or shared basis) but in the absence of actual data it is thought that approximately 20% of all barristers have full time secretarial support. The other 80% do all, or a significant proportion of, their own administration, including VAT returns.

SPECIFIC ISSUES OF CONCERN TO THE PROFESSION ARISING FROM THE CONSULTATION

At page 4 of the Consultation Document it is noted that “[t]he instance of businesses, mainly micro-enterprises, who still record their transactions manually in a journal or on a basic spreadsheet is continually falling” (emphasis supplied). This is certainly not true of the barrister profession and it is quite common for barristers to operate their practices using only Microsoft Excel and Microsoft Word to keep track of fee notes issued and monies received. There are certain accounting and billing platforms available to barristers (for example, BarCloud and Breeze) but no data is available as to how widely such platforms are used. Anecdotally, this may be in or around 30% at most.

Further, there is no standard or uniform manner in which barristers issue fee notes or receive payment, and whilst fees are generally discharged by cheque or EFT, there is no consistency from payor to payor, particularly as regards the time period within which fees are discharged. The Bar of Ireland is not aware of any barrister using e-invoicing as described on page 7 of the Consultation Document.

It is noted that the EU Commission ViDA proposal is referred to at page 8 of the Consultation Document, stating that those proposals, once adopted, “*will apply to every business who engages in trade between Member States in the EU, no matter the frequency or volume.*” This provision would appear to entail the imposition of particular hardship on barristers. It is not the norm for a barrister to regularly receive instructions from outside the State. However, it does occur from time to time and those instructions can come, for example, from a commercial body established abroad or a foreign court which requires an independent opinion on an issue of Irish law. If/when a given barrister does receive instructions from abroad this may happen only once every few years. If barristers were obliged by ViDA to immediately become subject (in perpetuity) to real-time VAT digital reporting and e-invoicing this would impose a significant burden on such barristers.

Furthermore, as a consequence of their inability to sue for fees, the services provided by barristers are provided for in s.28(2) VATCA and the date of supply is the date on which the sums charged are received. Barristers issue fee notes when requesting their fees and issue VAT invoices when their fees are received. It is not clear as to how this would impact the implementation of real-time reporting to the barrister profession.

In summary, practising barristers vary significantly in terms of the size and sophistication of their practices. Barristers are involved in a wide-variety of B2C, B2B and B2G transactions and there is no one ‘typical’ barrister. As a general rule, however, the majority of barristers perform all of their own administration, with many using only basic tools such as Excel and Word. The imposition of real-time reporting and e-invoicing at all levels would impose significant hardship on a large number of barristers in circumstances where the costs involved are disproportionate to the income received, and where such costs will have to be borne by the individual rather

than a large corporation or commercial entity. Further, it is not clear as to how real-time reporting will interact with s.28(2) VATCA.

It is noted, at page 7 of the Consultation Document, that *“[i]t may not be necessary to adopt a universal approach in transitioning to new reforms, as capacity, readiness and challenges may vary for businesses of different scale or circumstances. In particular, the position of small businesses and those who do not have digital facilities will need to be understood and taken into account in any programme design.”* Given the foregoing, it is suggested that real-time reporting and e-invoicing be limited to:

1. those sectors that have accounting packages and software available to them that will facilitate real-time reporting and e-invoicing without imposing a significant burden on individual tax payers, and
2. those businesses with a minimum turnover set at a level that is not likely to capture solo self-employed individuals.

CONCLUSION

The Council of The Bar of Ireland welcomes the opportunity to respond to this consultation and is available to provide any further insight and comment as may be required.