



National e-Invoicing System (KSeF) to become mandatory on July 1, 2024

(as at June 12, 2023)

In recent weeks, the latest bill has been introduced that will regulate the mandatory use of the National e-Invoicing System (in Polish: "Krajowy System E-faktur", hereinafter: KSeF or System). The bill aligns with the announcements from the Ministry of Finance, concerning changes (relative to the original December 2022 version) presented at a coordination conference at the Ministry of Finance on February 16, 2023. The participants included entities from the IT, accounting and tax consulting sectors (also Tax Benefit) as well as entrepreneurs themselves.

Pursuant to the new provisions, the use of KSeF is to become mandatory on July 1, 2024. As of that date, new rules for VAT taxpayers issuing invoices will come into effect. In this context, the following points should be kept in mind:

- KSeF is an IT system that will facilitate issuing, sharing and storing structured invoices;
- the structured invoice will be issued using KSeF, obtaining an identifying number assigned to it within the System;
- it will essentially be impossible to invoice outside of KSeF (with a few exceptions);
- structured invoices will be issued in the taxpayer's accounting system in a standardized XML format that must comply with the XSD logical structure published by the Ministry of Finance, or directly in the taxpayer application (in Polish: Aplikacja Podatnika) provided by the Ministry of Finance;
- structured invoices generated in local accounting systems will be transferred to the central database of the Ministry of Finance (KSeF) via the application programming interface (API);
- the structured invoice will be recognized as issued on the day it is sent to KSeF;
- the structured invoice will be considered as received via KSeF on the day the unique identifying number is assigned to it within the System;
- correcting invoices will also be issued within KSeF.

Moreover, the KSeF provisions will address the following issues:

- KSeF invoicing will become mandatory for taxpayers under subjective tax exemption or performing only tax-exempt activities as of January 1, 2025.
- Exemptions from the mandatory use of KSeF will include:
 - invoices issued to natural persons (B2C),
 - invoices generated under OSS and IOSS procedures,
 - highway and passenger transportation invoices (subject to additional conditions).

TAX BENEFIT Roszkowski Murawski Doradcy Podatkowi Sp z o.o.

Spółka doradztwa podatkowego nr wpisu 610
ul. Grochowska 306/308 bud.E/piętro 1, 03-840 Warszawa, Sąd Rejonowy dla m.st. Warszawy w Warszawie,
XIII Wydział Gospodarczy KRS, Kapitał zakładowy: 200.000 PLN
+48 22 3040900, e-mail: office@taxbenefit.pl, www: www.taxbenefit.pl
KRS: 0000765002, NIP: 5252550760, VAT-UE: PL5252550760, REGON: 146599222

- The stipulated fines for failure to comply with KSeF obligations are expected to reach up to 100% of the VAT tax shown on the invoice, and in the case of invoices without the indicated tax, up to 18.7% of the total amount due shown on the invoice.
- As of 2025, the possibility of issuing invoices using cash registers as well as simplified invoices (NIP-bearing receipts up to PLN 450) will be waived.
- When issuing a structured invoice to a receipt, the taxpayer will be obliged to keep, among other things, the number of that receipt and the unique number of the cash register.
- The possibility to issue corrective notes both for documents issued within and outside of KSeF will be excluded, and the only way to make changes to the invoice data will be for the vendor to issue a corrective invoice.
- Emergency offline invoicing outside of KSeF has been made possible.
- More flexible rules are expected for converting into PLN certain invoices issued in foreign currencies.
- Mandatory KSeF will also cover self-billing invoices.

KSeF for foreign taxpayers registered for VAT purposes in Poland

Despite much criticism over the mandatory use of the new invoice type for foreign taxpayers with a fixed establishment in Poland within the meaning of Council Implementing Regulation (EU) No. 282/2011 of March 15, 2011, establishing implementing measures for Directive 2006/112/EC, the Ministry of Finance has not backed away from making KSeF mandatory for them. However, this obligation will arise only if the fixed establishment participates in the transaction. For operations not involving a fixed establishment, there will be no obligation to apply KSeF.

Guidelines for clarifying what constitutes a fixed establishment for VAT purposes in Poland are forthcoming. As of the release of this brochure, it remains uncertain if and when these guidelines will be released, and if so, what form they will take.

As per the Ministry of Finance's announcement, the KSeF bill is expected to provide for the preservation of the buyer's right to deduct the VAT from a document issued outside of KSeF when the existence of a fixed establishment in Poland is mistakenly or belatedly established. However, this clarification failed to appear in the currently published draft.

Foreign entities without a headquarters or a fixed establishment in Poland will be excluded from the obligation to issue structured invoices within the KSeF system, and therefore, they will keep the right to issue invoices in a relatively informal way in accordance with the existing rules.

Preparing for implementing e-invoices

The new regulations introduce significant changes and challenges in invoicing processes. Structured invoices will be issued in a unified XML format. Invoices will no longer be exchanged directly between contractors, but through the centralized System that will ensure the verification of invoices and their delivery to recipients. Additionally, invoice storage will take place within KSeF which the tax authorities will have direct access to.

Taxpayers need to be technically prepared to implement the new solutions, i.e. to adapt their systems to the new invoicing processes. Below, we present solutions that will allow you to implement KSeF:

1. Integrating KSeF with your existing accounting software (if you are interested in this solution, feel free to contact us, so we can provide a quote for you in collaboration with our IT partner).

2. Implementing an off-the-shelf invoicing solution offered by entities specializing in accounting software development (if you find this solution appealing, we will be glad to recommend a service provider, from whom you will be able to purchase the appropriate software).
3. Issuing invoices on the Ministry of Finance website (as part of this solution, we can provide you with remote support for issuing documents through KSeF; however, we would like to stress that this solution will work only for several invoices per month at most).
4. If you use the services of accounting solution providers present on the Polish market, such as SAP, SAGE, or others, we suggest you consider implementing KSeF software in cooperation with the providers of these systems.

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