

The National e-Invoice System (KSeF)

Practical aspects



Introduction

The Act of 16 June 2023 introduces the mandatory National e-Invoicing System (in Polish: Krajowy System e-Faktury; the KSeF), i.e., the biggest revolution in invoicing that will change the current system of VAT settlements.

Many companies remain unaware of how challenging and time-consuming it can be for them to implement the KSeF, and how much they will have to modify the document flow and client communication. Companies will also have to integrate various systems and rely on their reliability.

From July 2024, the issue of invoices by VAT taxpayers to VAT taxpayers will be compulsory, and from 2025 failure to fulfill these obligations will be penalized.

I hope you will find our presentation helpful.

Małgorzata Samborska

Partner, Tax Advisor
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The on-line invoicing

Definition

The National e-Invoice System (KSeF) is a central IT system operated by the Head of the National Tax Administration (NRA). It is used to issue and receive e-invoices in real-time in XML format, with an identification number assigned in the KSeF.

The KSeF is also used as:



a repository of e-invoices,



a huge database that can be used by a tax office to process and analyse data in real-time (which makes it a 'holy grail for hackers'),



support for fiscal tools aimed at combating fraud and VAT evasion, such as:

- the Standard Audit File,
- split payment mechanism,
- the STIR electronic cash flow analysis system,
- an on-line cash register system.

Schedule for the KSeF launch

The KSeF as a mandatory invoicing tool will be launched on 1 July 2024.

In the beginning, only small entrepreneurs who are exempt from VAT due to turnover or who only perform VAT exempt activities will not be subject to this obligation.

It will be the biggest and most heavily loaded public IT system in Poland. There is little interest in voluntary participation, so the moment of truth will come in July 2024, when the system becomes mandatory. Many countries have begun to introduce this form of billing with a requirement for companies to cooperate with public administration institutions. This was the case in Italy and will be the case in Germany.

Note:

Poland has obtained the approval of the EU Council to introduce the mandatory e-invoicing system for the period from 1 January 2024 to 31 December 2026.

1 January 2022

Launch of the voluntary KSeF.

1 July 2024

Launch of mandatory electronic invoicing for domestic and foreign VAT payers with their registered office or fixed establishment in Poland.

1 January 2025

Launch of the mandatory electronic invoicing for VAT taxpayers who:

- do not have to register as VAT active taxpayers,
- provide tax exempt VAT services, as e.g. medical, educational, and financial services pursuant to the VAT Act.



Elimination of receipts with Tax ID Number (TIN) as simplified invoices.

Elimination of cash register invoices.



Introduction of penalties for invoicing outside the KSeF.

The KSeF scope




Mandatory KSeF will include:

-  B2B invoices issued by Polish taxpayers to domestic and foreign clients – intra-community supply of goods, export of goods, and export of services (reverse charge invoices).
-  B2B invoices (as above) issued by foreign taxpayers with a fixed establishment (FE) in Poland.

Voluntary KSeF will include:

-  invoices issued by foreign entities registered in Poland for VAT purposes but without a fixed establishment;
-  invoices issued by taxpayers with a fixed establishment for VAT purposes in Poland provided that such an establishment is not involved in a transaction.

Exclusions (documents that cannot be voluntarily entered in the KSeF):

-  B2C invoices (issued to non-business individuals).
-  Invoices in special procedures: the One-Stop Shop (OSS), the Import One Stop Shop (IOSS).
-  Cases provided for by the Ministry of Finance Regulation (passenger transport tickets treated as invoices, motorway toll, CRCO Eurocontrol).

Outside the KSeF: VAT settlement for imports of services, intra-community acquisitions of goods and other transactions where no invoice is required.

Note! Fixed establishment

Much controversy surrounds the fact that taxpayers with their FE in Poland are covered by the mandatory KSeF. The controversy is due to the lack of a precise definition of what a fixed establishment is; moreover, a tax authorities' approach to this issue keeps changing.

Tax authorities that used to argue against FE in some situations, today would adopt a different position, even though circumstances did not change.

Note! B2C invoices

Invoices issued to non-business individuals will remain outside the KSeF (with no right to be voluntarily included in the KSeF). However, this condition can be extremely problematic. This is because it makes a seller responsible for determining whether an individual making a purchase for private purposes (and therefore not using a TIN while making purchases) is carrying out business activity or not.

Numerous concerns were raised during public consultation, but it has never been conclusively settled how taxpayers should approach this issue.



Issues regarding subjective scope of mandatory KSeF

For both a taxpayer and its clients, it is necessary to determine whether a foreign VAT-registered entity has a fixed establishment (FE) in Poland or not.

Problems are caused by:

- evaluative nature of the FE existence,
- changes in the approach of tax authorities,
- new CJEU judgments on the subject,
- changes in the FE status due to changes in the facts of the case,
- no explanation or general interpretation (the MF is planning to issue explanatory notes, but it is unclear whether it will take place before the mandatory KSeF introduction),
- the fact of having a fixed establishment is not reported to or verified by tax authorities,
- the fact of having a fixed establishment will not be disclosed on the White List.

Our recommendation

The best option is to apply for an individual tax binding ruling.

Access to the KSeF

Authorisations

The system provides for two ways of granting, changing, or withdrawing authorisations:

electronically – a taxpayer or other authorised entity, using interface software [KSeF.mf.gov.pl], indicates the required range of data to grant, change or withdraw authorisations;

in hard copy – by filing a notice of granting or withdrawing authorisations (ZAW-FA) with a competent head of tax office.

Note!

The possibility of granting or withdrawing authorisations to use the KSeF in hard copy shall be provided for taxpayers and entities that are not natural persons and do not have the ability to authenticate themselves with a qualified electronic stamp.

In the case of taxpayers – individuals, the original power of ownership is automatically assigned.

First, taxpayers must secure
access to the KSeF



Certification

To be able to use the KSeF, certification is required through:

- a qualified electronic signature,
- a qualified electronic stamp,
- a trusted signature,
- a unique TOKEN, generated and assigned specifically to a given taxpayer or authorised entity and its authorisations.

Note!

Authorisations are assigned to a specific individual identified by NIP (tax identification number) or personal ID number.

Further authorisations can be granted electronically to other individuals, but an ill-considered authorisation system can make a group of individuals with unrestricted access to invoices (both received and issued) too wide.

Issue of invoices in the KSeF

Tools

E-invoices will be issued through:

- commercial programs (taxpayers' internal systems), or
- additional platforms/external tools linking a company's systems to the KSeF, or
- free tools provided by the Ministry of Finance.

Sending invoices in the KSeF

- Invoices are sent interactively, i.e., each one is sent individually.
- Invoices can also be sent in batches, i.e., bundle invoices.

Verifying invoices in the KSeF

Verifying invoices in the KSeF

- compliance between an invoice and a scheme, and
- verification of credentials of a person /company - only after a positive verification, the KSeF system will generate an identification number to be assigned to a given invoice.

Note!

The KSeF is not used to validate invoices, i.e., to check whether they were issued in accordance with a scheme. In the case of bundle invoices, if even one of them is semantically inconsistent with a scheme, the entire batch will be rejected without any information about where an error is made.

Our recommendation

It is recommended that taxpayers have their own invoice validator and use it to ensure that documents sent to KSeF to issue a structured invoice are consistent with requirements / scheme.

Processing of invoices in the KSeF

Issue of an invoice in the KSeF

Electronic invoice is deemed to have been issued on the date on which it is sent to the system. At that moment the KSeF number is assigned.

When the system is down or operates in the off-line mode

Electronic invoice is deemed to have been issued on the date provided by a taxpayer in the "P1" field "date of issue".



Remember!

There is no possibility of withdrawing/cancelling an e-invoice in the KSeF.

Delivery of invoices must be agreed with a client when the system is down or is unavailable for reasons attributable to the taxpayer.

Receipt of an invoice via KSeF

Electronic invoice is deemed to have been received with the use of the KSeF on the day it is given an identification number in this system.

When the system is down or operates in the off-line mode (for reasons attributable to a taxpayer)

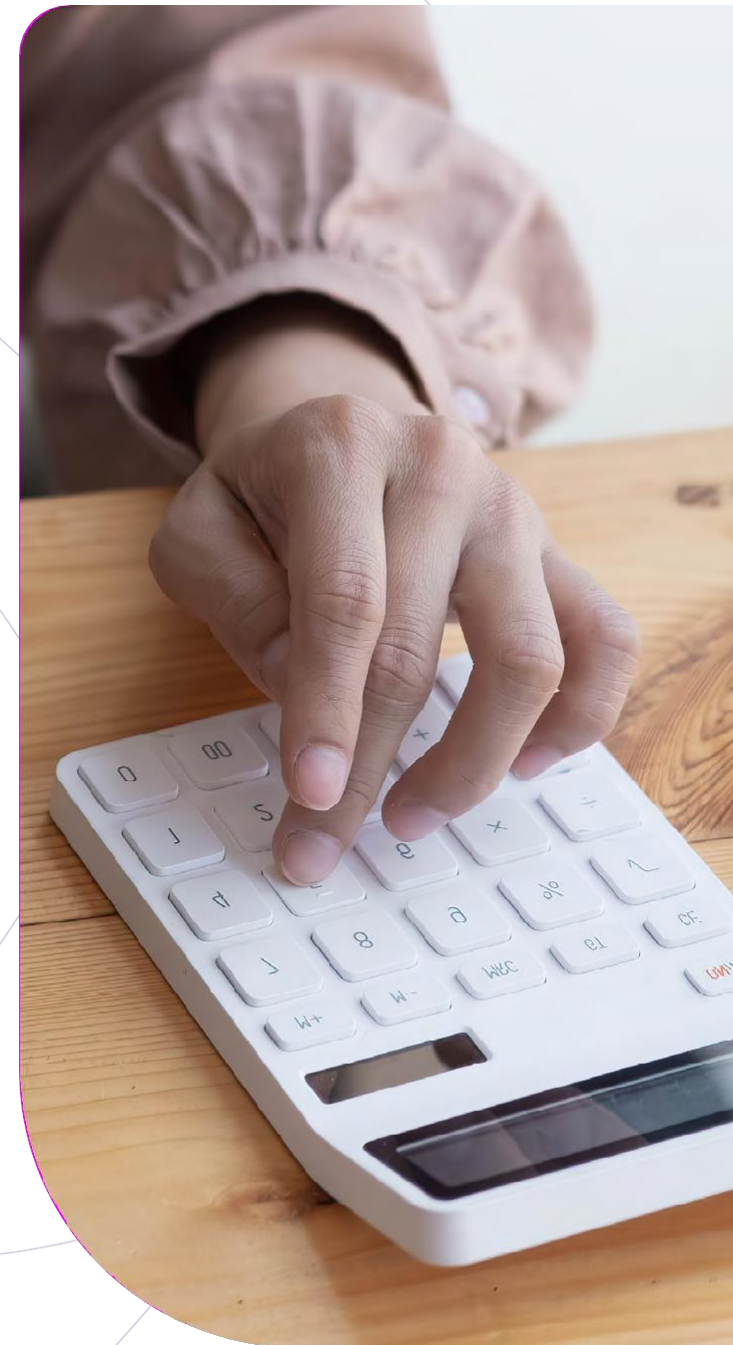
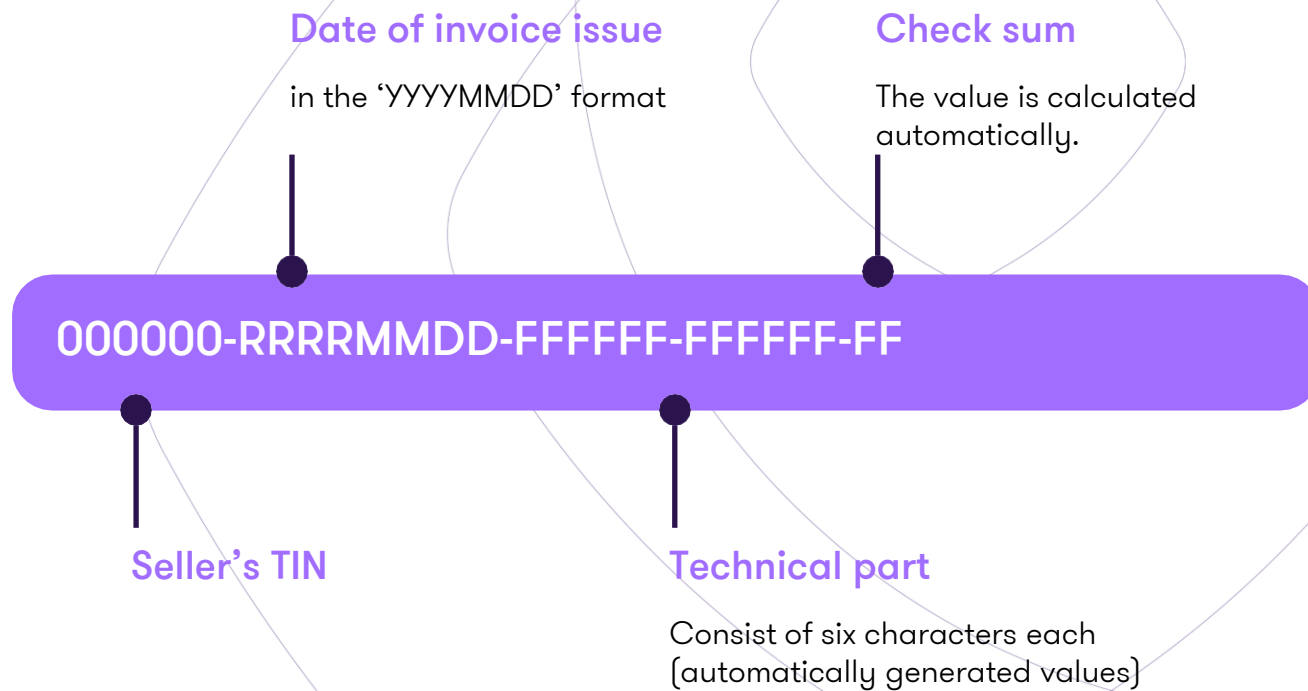
Electronic invoice is deemed to have been received on the earlier of the two dates: the date of receipt outside the KSeF or the date of the KSeF number allocation.

It is necessary to verify which date came first.

The KSeF number

The KSeF number is a unique number that identifies an invoice in the National Register of e-Invoices.

It consists of the following elements:



Official Receipt of e-invoice receipt in the KSeF

1. Document ID

In the case of interactive dispatch, it is a session reference number. In the case of batch dispatch, it is an invoice package reference number.

When the system is down/the KSeF is unavailable /or if structured invoices cannot be issued for reasons attributable to a taxpayer, the date provided by a taxpayer in the “P1” field (described as “date of issue” in a template) is considered an invoice issue date.

Krajowy System e-Faktur **URZĘDOWE POŚWIADCZENIE ODBIORU DOKUMENTU ELEKTRONICZNEGO KSeF**

A. NAZWA PEŁNA PODMIOTU, KTÓREMU DORECZONO DOKUMENT ELEKTRONICZNY

Ministerstwo Finansów

B. INFORMACJA O DOKUMENCIE

Identyfikator dokumentu przelotowego do KSeF: 20220101-00-0000000000-0000000000-00 1. Identyfikator podmiotu (Pobici): 1010000000

Wartość funkcji skrótu dokumentu w postaci używanej przez system (razem z podaniem elektronicznym): aaa

Nazwa pliku XML struktury logicznej dotyczącej przelotowego dokumentu: a

Kod formatu przebiegu dokumentu elektronicznego: a

Lp.	Numer identyfikujący fakturę w Krajowym Systemie e-Faktur (KSeF)	Numer faktury	Data przesłania dokumentu do systemu informatycznego Ministerstwa Finansów	Data przyjęcia dokumentu do systemu informatycznego Ministerstwa Finansów	Wartość funkcji skrótu złożonego dokumentu
1.	1010000000-20200101-000000-000000-00 2.	123/2022 3.	2021-10-01T00:00:00Z 4.	2021-10-01T00:00:00Z 5.	aa
2.	2020000000-30300202-000000-000000-00	2022	2021-10-01T00:00:00Z	2021-10-01T00:00:00Z	aa
3.	3030000000-40400303-000000-000000-00	789/2022	2021-10-01T00:00:00Z	2021-10-01T00:00:00Z	aa

2. KSeF No.

3. E-Invoice No. assigned by taxpayer

4. Dispatch date
= date of e-Invoice issue

5. Acceptance date
= date of assigning the KSeF number
= date of e-invoice receipt by a buyer

The date provided in this field will be accepted and shown in the KSeF identification number; this number will be assigned once this date is entered into the KSeF system/a failure has been fixed.

The date from the P1 field will also be officially acknowledged and will thus determine when an invoice becomes part of legal transactions.

However, if such an invoice is sent to a buyer outside the KSeF, prior to its entry into the KSeF system, the date of its receipt during the system crash/unavailability period is tantamount to this invoice’s actual date of receipt.

Structured invoice (e-invoice)

A structured invoice is an invoice issued only in a strictly defined XML format - logical structure scheme



XML is compliant with a scheme provided by the Minister of Finance on an electronic platform of public administration services. **Since 1 September 2023 it is FA(2).**



There will be a single scheme for all types of invoices (including an advance invoice, correcting invoice, or collective invoice).



Elements of an e-invoice:

- obligatory – they cannot be skipped,
- optional – records are obligatory if it is necessary to fulfill a statutory condition,
- optional – the field is not required either for the semantic correctness of a file or for statutory reasons.



An invoice visualisation must come with a QR code.



An invoice visualisation can be generated in PDF, HTML format.

Problem

Attachments cannot be sent in the KSeF

Solutions

1. Additional information can be placed in any field available.
2. An invoice can be provided with a link to an otherwise available specification.
3. Attachments can be made available outside the KSeF in a manner agreed with a client.

Note!

Issuing an invoice that does not comply with a structured invoice scheme is punishable by a heavy fine.



E-invoices in foreign currency

Given that an e-invoice is considered issued when it is sent to the KSeF, not when it is generated in a taxpayer's internal system, issuing invoices in foreign currency in the KSeF can be problematic if they are issued late in the evening or, for technical reasons, there is no guarantee that such invoices will be sent out the same day as the date in the 'P1' field [date of invoice issue].

To **avoid doubts as to the correctness of the currency exchange rate applied** on such an invoice, the legislator, in consideration of taxpayers' opinions expressed during a consultation, decided on a solution according to which, in the case of invoices in foreign currency, the exchange rate may remain the same until the following day, after an invoice is generated in a taxpayer's system.

Foreign currency exchange rate:





it remains the same for the P1 field of a structured invoice for + 1 day until it is sent to the KSeF.

This means that the currency exchange rate remains unchanged for the date provided in the 'P1' field even if an invoice is issued in the KSeF the following day.

This solution is **optional and adopted only in cases of technical problems regarding** the delivery of an invoice to the KSeF to issue a structured invoice.

An invoice issuer will still be able to use the foreign exchange rate on the business day preceding the day the invoice is issued (in the KSeF).

Payment for an e-invoice

-  When making a payment for an e-invoice, an active VAT payer is required to include the e-invoice KSeF number on a bank transfer to another active VAT payer.
-  The taxpayer status is determined based on the White List.
-  This obligation only applies to payments made by one active VAT payer to another.
-  It is possible to include a collective identifier for at least two invoices issued by a taxpayer to one recipient.

Note!

This type of an identifier makes collective payments easier, but it might be problematic to an entity receiving the payment due to the necessity to identify and assign an identifier to specific e-invoices.

Invoice corrections in the KSeF

The KSeF will make the settlement of correcting invoices easier.

Correcting e-invoices

On an issuer's part, an 'in minus' correcting invoice will be settled on an ongoing basis and for a billing period in which a taxpayer has issued an e-invoice.

As for e-invoices, an onerous obligation to have documents confirming that conditions for tax base reduction have been agreed and that these conditions have been met will be lifted.

A buyer will deduct input tax for a billing period in which an e-invoice is received.

Correcting invoices (other invoices)

As for invoices other than e-invoices, the provisions on an obligation to have an acknowledgment of receipt for the correcting invoice will be reinstated.

Correcting invoices for invoices issued before 1.07.2024 will only be issued using the KSeF.

The KSeF breakdowns and unavailability (off-line mode)

System breakdown

The KSeF breakdown is announced officially and via the interface.

The system breakdown is announced in social media.

For example, caused by an attack on infrastructure or an emergency situation.



In the case of the KSeF breakdown or unavailability (either on the part of the MF or the taxpayer), invoicing possibilities will be limited.

In the event of short-term unavailability, if possible, the simplest solution will be to wait until the system is reinstated.

However, if for various reasons (including the expiry of statutory deadlines) a taxpayer cannot or does not want to wait, there will be an option to issue an Invoice outside the KSeF, but only in accordance with statutory rules, which depends on the kind of the system breakdown or unavailability.

Off-line mode

The KSeF unavailability (for reasons attributable to the KSeF)

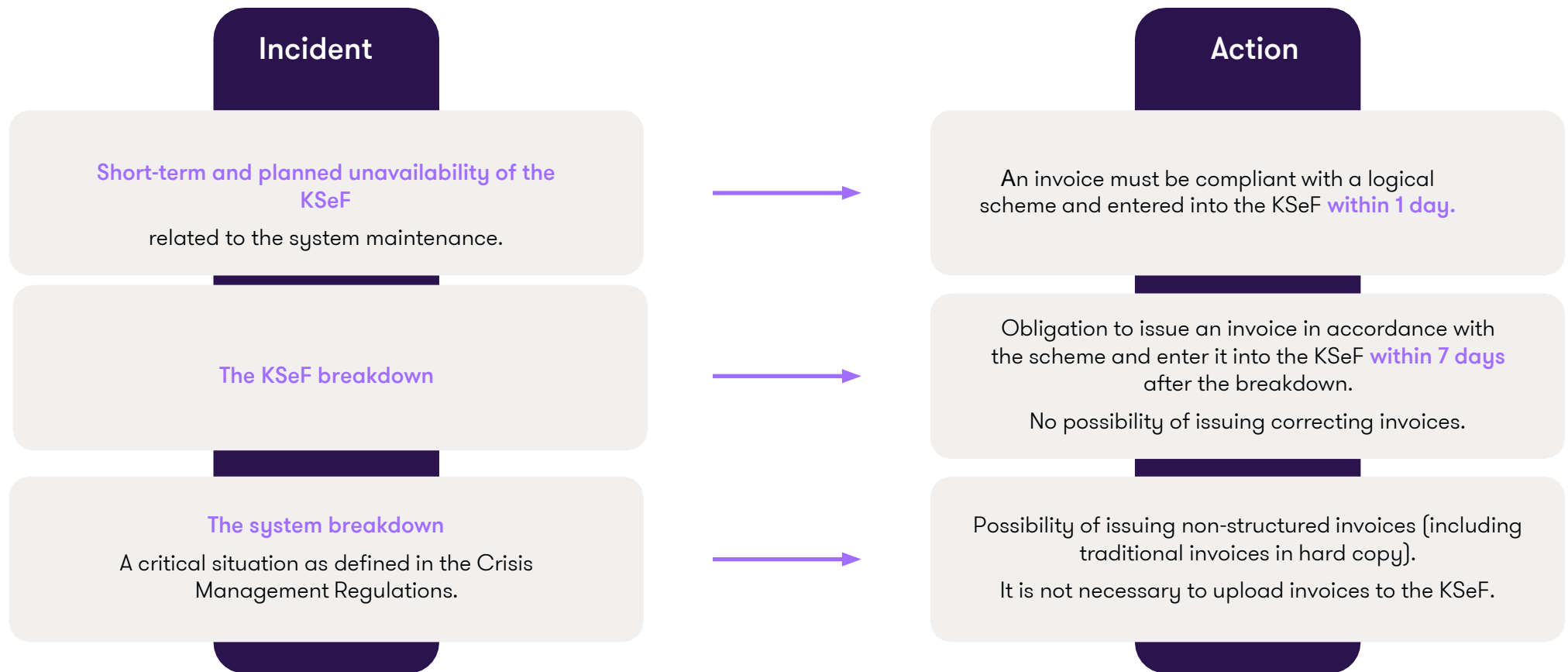
Short-term and planned unavailability of the KSeF related to the system maintenance.

The KSeF unavailability (for reasons attributable to a taxpayer)

A taxpayer cannot issue an e-invoice for reasons attributable to this taxpayer (i.e., the system works in the off-line mode).



Procedure to be followed in the case of the KSeF breakdown or unavailability



If an invoice is issued outside the KSeF, it will be a taxpayer's responsibility to send an invoice to the system within a strictly defined deadline, the length of which depends on the type of breakdown/unavailability. If a breakdown occurred on the part of a taxpayer, the latter will be obliged to send invoices to the KSeF no later than the next working day. **Therefore, time will be short, and various fortuitous/life situations might make the risk of missing these deadlines high!**



Sanctions and fines

Taxpayers are required to issue invoices through the KSeF. Failure to do so will result in fines.



Actions subject to sanctions

- Failure to issue an e-invoice in the KSeF despite an obligation to do so.
- Issue of an invoice inconsistent with a scheme when the system is down or unavailable.
- Failure to send to the KSeF invoices issued when the system was down or unavailable within the required deadline.



Sanctions

- Up to 100% of the amount of tax shown on a given invoice.
- Up to 18.7% of the gross amount on the invoice (if the invoice is exclusive of VAT).

Note!

The provisions regarding fines will apply from 1 January 2025.

When the KSeF is used, the provisions of the Fiscal Penal Code will not apply.

If an invoice is defective, the Fiscal Penal Code is fully excluded.

Advantages of the KSeF

The KSeF is not only about additional obligations but also about simplification and benefits for taxpayers.

Reduced return period of VAT surplus from 60 days to 40 days.

No obligation to send the structure of the Standard Audit File for Invoices at the request of tax authorities.

Exception: invoices issued outside the KSeF, e.g. B2C invoices.

E-invoices are stored in the KSeF for **10 years**. No need to **archive invoices**.

Attention should be paid to fixed asset invoices!

The KSeF

Easier billing of 'in minus' correcting e-invoices.

Failure to apply conditions regarding correction arrangements:

- seller-issue of e-correction,
- buyer-obligation to reduce input VAT upon receipt of the e-correcting invoice.

Process automation and safety of invoice circulation:

- all invoices have a structured format,
- invoices will not be lost or destroyed,
- no duplicates.

The end of an era

A woman with short blonde hair and glasses, wearing a yellow sweater, is sitting on a couch and looking at a tablet. A man with glasses and a beard, wearing a light-colored sweater, is sitting next to her, also looking at the tablet. They are in a modern, dimly lit room with large windows in the background.

1 July 2024:

the end of the possibility of issuing most of 'traditional' invoices.

1 January 2025:

from that date, a fiscal receipt from cash register with TIN with the value not exceeding PLN 450 will no longer serve as a simplified invoice. Also, it will not be possible to issue an invoice from cash registers.

June 2024:

actions taken before this date, for which no invoice was issued, will need to be documented with an e-invoice (issued in the KSeF).



Note!

The KSeF is a real revolution in invoicing. It is worth, however, getting ready for it as soon as possible.

For many taxpayers, implementing the KSeF can be quite a challenge.

Particularly in the case of larger taxpayers, it is a mistake to believe that the delivery of a suitable tool by a software supplier is sufficient. Many issues must be settled by a taxpayer and require additional arrangements with clients.

Key challenges related to the KSeF

1. The need to change the issuance and circulation of sales invoices

- Providing access to all mandatory data in order to issue a scheme-compliant e-invoice.
- Internal validation of the e- invoices.
- Arranging with clients on how to present additional information on e-invoices because it is not possible to send attachments through the KSeF.
- Adapting procedures with clients, especially when the system is down or operates in the off-line mode, e.g. how to share an invoice.

2. Ensuring proper circulation of purchase invoices

- Ensuring the flow of information about the purchase invoices in the KSeF.
- Agreeing on and implementing means of identification in the KSeF invoices and assigning them to the right cost centre, including invoices collected by employees, e.g. during business trips, from different branches of the company.

3. Adjusting dates of issue and dates of receipt of invoices based on new rules, particularly concerning invoices in foreign currencies



4. Changing a priority for the KSeF (from low to higher) on the part of IT departments / local software providers.

Security

The KSeF will be the repository for all B2B invoices issued by VAT payers with its registered office or a fixed establishment in Poland.

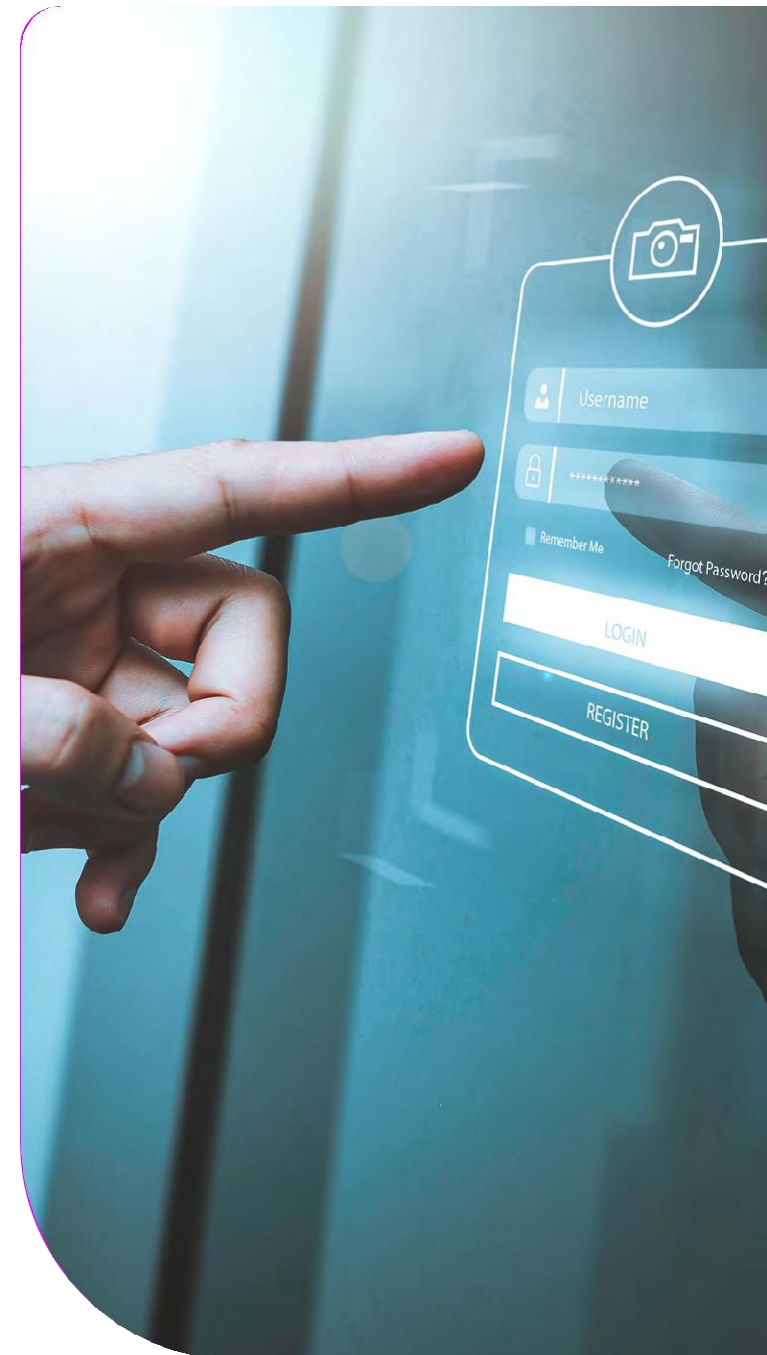
It will therefore become a large database that can be targeted by cyber-attacks, both for amateur hackers as well as professional groups operating for financial gain. According to press reports, the KSeF currently operating on a voluntary basis has already fallen victim to malware attacks.

Hence, it is so important to:

-  apply appropriate KSeF security features, such as multi-factor authentication, transmission encryption,
-  properly manage the users' rights.

Note!

Integration of VAT payers' financial and accounting systems with the KSeF raises additional risks related to cyber-security on the part of taxpayers, resulting from the integration itself. If such integration fails or is done incorrectly, unauthorised individuals may have access to taxpayers' data directly from their accounting systems.



How to implement the KSeF correctly?

Step 1

Definition of project objectives, preparation of a schedule and identification of project risks.

Step 2

- **Analysis** of two processes: (i) issuing sales invoices and circulation of purchase invoices in terms of the KSeF impact, and (ii) ensuring that invoices can be sent and received from the KSeF.
- **Analysis** of types of invoices currently issued in terms of the information and data they contain in the context of requirements for a structured invoice (logical scheme).
- **Consultation** with clients on how to (i) include additional information on structured invoices and (ii) identify opportunities for process automation.

Step 3

Adaptation of IT systems and technical integration with the KSeF.

Step 4

Tests, including tests with clients.

Step 5

Adaptation of procedures, regulations, and sample contracts.

What is worth analysing? One should:

- check whether all scheme-required information is in the accounting systems;
- assign invoices for relevant cost centres;
- allocate purchase invoices if a seller has forgotten to provide a purchase order number and purchase invoices without a purchase order number to the correct processes and document flow;
- properly provide references to original invoices on collective correcting invoices;
- handle issues of indirect discounts currently documented by VAT notes;
- clearly differentiate between B2B and B2C invoices;
- determine whether a client is subject to the KSeF obligations (e.g. whether it is a foreign entity with a FE);
- provide line-level information on measure, quantity and unit price on invoices issued in the finance modules;
- provide the KSeF number or a collective identifier on payment orders (and decoding them on the part of sellers);
- handle the system crashes and off-line modes on the part of buyers;
- reflect upon introducing a tool to identify duplicate invoices/invoices issued by error.
- reflect upon establishing an empowerment policy.

Contact us!



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We are one of the world's leading audit and advisory organisations. We have been operating in Poland since 1993. With a team of more than 950 people and eight offices in key cities, we serve more than 2,300 clients annually. We operate in 140 countries and employ more than 62,000 people, with the company's history dating back to 1904.

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