



Draft Regulation on the requirements for invoicing software ad records

Tax Alert



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The Draft Royal Decree approving the Regulation governing the requirements for electronic or computer software and systems that support the invoicing processes of traders and professionals, and the standardisation of invoicing record formats, has recently been published.

This Regulation implements the obligation on all traders, as of 1 January 2024, to have in place validated electronic invoicing systems and to submit their records on a continuous (albeit, for the time being, voluntary) basis to the State Tax Agency.

It also implements the new invoicing software obligation ushered in by Law 11/2021, which will affect both the producers and traders of computer systems as of the day following the date on which the future Regulation is published in the Official State Gazette.

Introduction

In an attempt to prevent the manufacture and possession of computer software and systems that permit the manipulation of accounting and management data, Law 11/2021 of 9 July 2021, on Measures to Prevent and Combat Tax Fraud (Fraud Prevention Law) introduced a **new formal tax obligation**. Namely, it requires producers, traders and users alike to ensure that the electronic or computer systems that support their accounting, invoicing or business management processes meet certain requirements designed to safeguard the integrity, retention, traceability and inviolability of the relevant records. It further provides that the technical specifications in respect of these requirements may be established in **implementing regulations** (article 29.2.j) of the GTL). This new obligation is accompanied by a particularly severe and specific penalty regime (article 201.bis GTL) for infringements of the above obligation (dealt with in a previous [tax alert](#)).

Against this backdrop, this Draft Regulation sets out the **requirements and technical specifications to be met by all computer systems and software** used by persons engaging in economic activities **in relation to invoicing obligations** and the standardisation of the related formats, with a view to ensuring the integrity, retention, accessibility, legibility, traceability and inalterability of the relevant records.

According to the preamble to the Draft Regulation, SMEs and self-employed workers can take advantage of the Digital KIT financing mechanism, enabling them to access European funds under the Spanish Recovery, Transformation and Resilience Plan, to help them finance the costs of adapting to this digitalisation process.

Elsewhere, indirectly related to this Draft Royal Decree, and as part of the process for the digitalisation of Spanish companies, the authorities are seeking to **promote electronic invoicing**. For this reason, the Draft Law for the Creation and Growth of Companies (published in the [Official Gazette of the Spanish Parliament \(OGSP\)](#) in December 2021 and currently on its passage through parliament), provides for **mandatory electronic invoicing in transactions between all companies and self-employed workers**.

This obligation will enter into force one year after its publication for companies with revenues exceeding Euros 8 million and three years thereafter for all other companies and self-employed workers.

Turning our attention to the regulatory implementation of the requirements for electronic or computer systems supporting invoicing processes or the issue of other documents evidencing the transactions involved in the relevant economic activity - which is the focus of this Royal Decree - we set out below the most important aspects to bear in mind.

Who does the Regulation affect?

This Regulation will affect the following taxpayers, when they use electronic invoicing systems, albeit for only part of their activity:

- **Corporate income taxpayers**, with the exception of exempt and partially exempt entities, except as regards activities that are subject to and not exempt from taxation.
- **Personal income taxpayers** engaging in economic activities.
- **Non-resident income taxpayers** that obtain income **through a permanent establishment**.
- **Entities subject to the allocation of income regime** that engage in economic activities.
- **Producers and traders of electronic invoicing systems** made available to the above taxpayers.

Article 1, on the subject matter, provides that the Regulation will apply throughout Spain, without prejudice to the foral economic agreements and tax regimes in force, respectively, in the Historic Territories of the Basque Country and the Foral Community of Navarre and having regard to the special terms set out in the specific legislation in place in the Canary Islands, Ceuta and Melilla.

What processes are affected?

The Regulation will apply to **computer systems that support the invoicing processes in respect of transactions relating to the activity of persons engaging in economic activities**, with certain noteworthy exceptions. Namely, it will not apply in respect of transactions performed by persons taxed under the special scheme for agriculture, farming and fishing, transactions invoiced by means of bills, transactions performed under the equivalence surcharge and simplified regimes in which no invoice is issued, or transactions relating to certain supplies of energy.

Transactions carried out through permanent establishments located abroad are also exempt from this obligation.

Elsewhere, the Regulation provides for the **possibility of submitting a request** to the Director of the STA's Financial and Tax Inspection Department for its **non-application**. Such a request for non-application may concern a **particular business sector** and be made on grounds of its specific commercial or administrative practices, or with a view to preventing disruption to the pursuit of economic activities therein, or **relate to transactions** carried out in exceptional technical circumstances. The relevant exception may be granted on a temporary or permanent basis.

Features of electronic invoicing systems

Affected taxpayers may opt to use the software made available by the tax authorities or an alternative system, in which case the system in question must meet certain additional requirements.

Requirements for and guarantees to be offered by computer systems

The computer systems implemented must guarantee (i) the **integrity and inalterability** of the invoicing records, which must not be modifiable either by the system itself, or by the user or any other software, i) its **traceability** and (iii) the **retention** of the invoicing records generated by the system.

They must also incorporate an **event log** that permits any interaction with the computer system to be automatically logged.

The systems will generate an **invoicing record registering each transaction** performed, and an additional record will necessarily be generated where any registered data must be rectified or deleted.

The systems in question must also permit the continuous, secure, correct, complete, automatic, consecutive, instantaneous and reliable **submission to the tax authorities** of all invoicing records generated by electronic means.

Fingerprint or hash and electronic signature of records

The computer systems must **add a fingerprint or “hash” to any invoicing records** of registration or cancellation.

Records must also be signed electronically, except where the computer system used submits all invoicing records to the STA.

Invoicing records

Invoicing records of registration or cancellation (the latter being generated where an invoice is wrongly issued and its invoicing record of registration must be cancelled) must **generally include the minimum content** envisaged in the **Invoicing Regulations, and also:**

- Where the invoice in question is not the first invoice issued, **the number, serial number, issue date and part of the fingerprint (or “hash”) of the previous invoice record.**
- The **identification code of the computer system used.**
- The **identification code corresponding to the invoicing record of registration generated.**
- **The date of and hour, minute and second in which the invoicing record of registration is generated.**
- **For records of cancellation, the alphanumeric identification code** corresponding to the cancelled **invoicing record of registration.**

Solemn declaration regarding the computer system

Where a computer system other than that provided by the tax authorities is used, the system’s producer must give a solemn declaration confirming its compliance with the invoicing record requirements established in the GTL and this Regulation.

The solemn declaration must appear visibly in writing on each of the versions of the computer system, be visible to the client and the trader upon purchase of the product, and be kept throughout the statute-of-limitations period in respect of any such tax obligations as may arise while the system is in operation.

The solemn declaration may also be requested of the system’s producer or trader by the client or the tax authorities.

Verifiable invoicing systems

The chosen computer systems must permit the submission of records to the STA, even where such submission is not mandatory. In any event, where taxpayers opt to use the system made available by the tax authorities, such submission shall be deemed made automatically.

Where taxpayers **submit their invoicing records to the STA voluntarily**, the computer systems used to generate such records will be considered **“verifiable invoicing systems”** or **“VERI*FACTU systems”**. The computer system made available by the tax authorities will also be classed in this way.

These systems will be presumed to meet the requirements for computer systems once the records have been submitted to and accepted by the STA, and it will not be necessary to sign the **invoicing records** electronically. **Rather, they need only contain the fingerprint (or “hash”).**

The information submitted to the authorities via verifiable systems will be incorporated into the sales and revenues records of personal income taxpayers as well as into VAT records.

Possibility of submission of information by the invoice recipient

Recipients may **voluntarily furnish the STA with the QR code** of the invoice received and, where it bears the words “Invoice may be verified on the STA’s website” or “VERI*FACTU”, they may **check that the invoice in question has been submitted** to the STA by its issuer.

Taxpayers and bookkeeping via SII

The above **requirements and guarantees** for computer systems will be deemed met **where taxpayers keep their invoicing records via the Immediate Supply of Information system (SII per its Spanish acronym)**. Nonetheless, as the Draft Regulation stands, they will still need to implement the new requirements introduced therein, such as the fingerprint (or “hash”) or the new identification codes. In any event, we will have to await the definitive text of the Regulation to see the scope of this provision and how it is to be implemented.

Verification by the STA

The new Regulation authorises the tax authorities to **visit the premises where the computer system is located or used** and demand full and immediate access to the data it contains, and to download, dump, consult or copy such data. The authorities may also **demand that the producers** of computer systems provide information evidencing compliance with the requirements for such systems.

Entry into force and effects

The Regulation is expected to enter into force the day after its publication in the Official State Gazette and will be applicable to producers and traders of the computer systems referred to therein, in relation to their computer system production and trading activities.

Notwithstanding, users of electronic invoicing systems must have systems reflecting the characteristics and requirements set out in this Regulation up and running as of 1 January 2024.

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