

Law no. 148/2012 on the legal framework of the electronic documents

Romania has recently passed into law, Law no. 148/2012 which establishes the legal framework for the issuing of electronic documents (invoices, tax bills, receipts) which will contain data regarding economic operations such as exchange or sale of goods or services. This is a further step to modernise the financial and banking system in Romania. As electronic commerce continues to expand Romania will continue to be at the fore front of this industry.

Natural or legal persons who issue invoices in an electronic form, (“**Issuer**”), must ensure the authenticity, origin and integrity of the invoice, in accordance with the conditions stipulated in the Law.

The invoices can be issued at the sole discretion of the Issuer in one of two ways, electronically or on a hardcopy. The Issuer may choose to change the manner in which it issues invoices provided it has notified the Ministry of Finance that it intends to issue electronic documents.

An invoice issued in electronic form must contain the timestamp that certifies the date of issue and an electronic signature. The certificate of the electronic signature should provide information concerning the fiscal number of the issuer and the number of the notice to the Ministry of Finance. Electronic invoices can be sent either electronically or by paper.

To enable a person to issue electronic documents the Issuer must fulfil the following conditions:

- a) Ensure that there are available technical and human resources in order to guarantee the security, reliability and continuity of the electronic data processing,
- b) Use staff with specialized knowledge of the technology concerning the electronic signature and with sufficient practice in security procedures,
- c) Be able to manage and archive and retain all the information regarding each invoice issued electronically for the time period established by various applicable legal norms for paper or hard copy documents and
- d) Use an electronic archiving system to retain all information concerning the issuing of electronic documentation.

The activities of issuing, transmitting and archiving the invoices in electronic form can be performed by a third party provided that the conditions above mentioned are fulfilled, and a valid contract is concluded between the Issuer and the respective person.

Receipts issued in an electronic format have to fulfil the legal conditions regarding their form and content. The receipt issued in an electronic format must contain the timestamp that certifies the moment issuance moment as well as the electronic signature. The certificate of the electronic signature must contain information regarding the fiscal number and registration number of the notice to the Ministry of Finance. The provisions regarding issuing, transferring, storing, archiving, converting and use of invoices are applied to the receipts in electronic form.

Tax bills issued by ATMs and cash registers in electronic form have the same legal status as those issued on paper.

The persons required to issue tax bills through cash registers or ATMs can store documents in electronic form in the same condition as issuing invoices with the additional provision concerning the archiving and providing access to bills issued in electronic form. All this appears to be complicated only to the extent that measures will be necessary to secure the security of the information and the implementation of the legal requirements.

As technology improves the use of electronic invoicing and issuing of receipts will increase creating another area where the use of technology will provide additional opportunities for employment.

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