

ORDER PRE/2971/2007, of 5 October, on the issuing of invoices by electronic means when their addressee is the General State Administration or public organisations linked to or dependent on the former, and on filing with the General State Administration or public organisations linked to or dependent on the former invoices issued between private individuals.

Section 2 of the Invoicing Obligations Regulations, approved by Royal Decree 1496/2003, dated 28 November, obliges business persons and professionals who provide goods or render services in the course of their activities to issue invoices and copies of these, with the sole exceptions as set forth in the Regulations. Specifically, it establishes this obligation, in all cases, that is, without exceptions, when the addressees for the invoices are the Public Administrations referred to under Section 2 of Act 30/1992, dated 26 November, on the Legal System of Public Administrations and Common Administrative Procedures.

Said Regulations, as in the case of their predecessor, Royal Decree 2402/1985, dated 18 December, which regulated the business persons and professionals' duty to issue and deliver invoices, allows the issue of invoices on electronic media, as long as it is possible to prove their date of issue, their recording in the issued invoices book and their suitable storage. Likewise, it establishes the possibility of sending invoices by electronic means, although this possibility is conditioned, on one hand, on the authenticity of origin and content integrity being guaranteed and, on the other, the expressly given consent of the invoice's addressee.

The Public Administration is the addressee of the invoices that have to be issued by business persons and professionals who enter into contract with said organisation and, therefore, sending invoices addressed to the Public Administration by electronic means is subject to the express consent of this body, consent that it may currently give at its own discretion.

In accordance with the aforementioned, each Public Administration may give express consent for the use of electronic means to send invoices that are addressed to said Public Administration. Nevertheless, consent for sending invoices addressed to Public Administrations has to be conditioned on the fulfilment of a series of technical conditions that, apart from guaranteeing authenticity of origin and content integrity, as required under the Invoicing Obligations Regulations, enable the Public Administrations to access the invoice and its content, process the information contained therein and guarantee their storage in suitable conditions. Otherwise, the purpose sought by the obligation to issue and deliver invoices imposed by the Regulations would be thwarted.

At this point it should be taken into account that contracting in the public sector, the basic legal grounds for which is the European Parliament and Council Directive 2004/18/EC, dated 31 March 2004, on co-ordination of public contract awarding for works, supplies and services, should be carried out within the economic co-ordinates of the European Single Market. The Member States and community organisations are obliged to guarantee the existence of co-ordination and inter-operational elements that permit secure exchange of documents between financial operators in the different countries. In the domestic arena, public sector contracts are dealt with, among other agents, by the ministerial departments and the public bodies linked to and dependent on the former, for which it is desirable to achieve uniformity in the establishment of the requirements and standards to be used in the different stages of the contract processes and, in particular, due to its importance, in sending invoices addressed to the General State Administration and its public bodies. This should be done, however, without losing sight of the need to progress towards integrating all the process stages and the European scale at which interoperability should be guaranteed. For this purpose, this Order establishes a series of technical conditions to be fulfilled when sending invoices addressed to the General State Administration and its public organisations, so that the aforementioned ministerial departments and public bodies, as they consider appropriate, may consent to the electronic sending of invoices addressed to them.

In order to guarantee the homogeneity of the operations of the General State Administration

and the public organisations linked to or dependent on the former in this area, this Ministerial Order deals, on one hand, with the way in which consent is given by those ministerial departments or bodies that choose to agree to having invoices addressed to them sent by electronic means and, on the other, the technical conditions that have to be met when sending invoices addressed to the Public Administrations by electronic means, leaving the decision as to whether or not to give such necessary consent to each entity or organisation.

On the other hand, during the course of an administrative proceeding, the Public Administration quite frequently receives invoices issued between private individuals, particularly in the case of subsidies. Given that they may be invoices on electronic media that could be filed electronically in those electronic registers that, pursuant to the legislation under which they were created, are authorised for this possibility, it is also equally desirable that there should exist uniformity in the establishment of the requirements and technical standards to be applied for electronic invoices that were issued between private individuals and are filed with the General State Administration

or with the organisations that are linked to or dependent on the former. For this purpose this Order extends the same technical conditions to the issue of electronic invoices addressed to the General State Administration or the organisations that are linked to or dependent on the former.

Additionally, it should be noted that the stipulations of this Order shall not affect the storage of invoices on electronic media that guarantee online access to the data, as well as their remote uploading and use by the Tax Agency, pursuant to Section 21.1, the Invoicing Obligations Regulations, approved by Royal Decree 1496/2003, dated 28 November.

Finally, Act 11/2007, dated 22 June, on electronic access by citizens to public services, establishes that maintaining relationships with the Public Administrations via electronic means is a right of the former and a correlative obligation for the Administrations.

In this respect, and in order that business persons and professionals may exercise their right to present invoices to the Public Administrations by electronic means, the Appendix to this Order establishes the electronic invoice format that will guarantee the issued invoices' interoperability with any body of the Administration.

By virtue of the foregoing, following proposal from the Second Vice-president of the Government and Minister of Economy and Finance and the Minister of Industry, Tourism and Trade, I hereby stipulate:

Section 1 Purpose.

The purpose of this Order is to establish a series of uniform standards and technical conditions for the issue and sending of invoices that affect the scope covered by this Order and to regulate the manner in which consent is given when the Administration is the addressee of the invoices.

Section 2 Scope.

This Order will be applicable to the General State Administration and the public organisations linked to or dependent on the former.

Section 3 Consent for sending electronic invoices to the General State Administration or the public organisations linked to or dependent on the former.

Without prejudice to that established in Section 27.6, Act 11/2007, dated 22 June, on electronic access by citizens to public services, which authorises the Public Administration to establish, in certain circumstances, the obligation to communicate with said Administration only via

electronic means, the use of electronic means to send electronic invoices to the Public Administrations included within the scope of application of this Order shall be conditioned on their express consent. When a ministerial department or public organisation gives its consent to receive invoices on electronic media, said consent shall be of a general nature and shall extend to all the cases in which they are the addressees of invoices. The provision making public said consent shall contain the formats, from among those established in the Appendix to this Order, in which the electronic invoices shall be accepted.

Section 4 Technical conditions for sending electronic invoices addressed or presented to the General State Administration or the public organisations linked to or dependent on the former.

The authenticity of origin and content integrity of the electronic invoices addressed to the Public Administrations to which this Order is applicable, in the area of administrative contracts, as well as of those issued between private individuals and presented electronically to said Public Administrations during the course of any administrative procedure, will be guaranteed by the requirement of an advanced electronic signature, in the terms established under Section 3.2 of the Electronic Signature Act 59/2003, dated 19 December.

Said electronic invoices must be in the format established in the Appendix to this Order, the format of the electronic signature complying with the specification XML-Advanced Electronic Signatures (XAdES), ETSI TS 101 903.

Section 5 Electronic invoice format conversion.

The Ministry of Industry, Tourism and Trade shall make available to users, through the web page www.facturae.es, the necessary tools to ensure the convertibility and compatibility of the formats established under this Order and of the format or formats that may develop as a result of the electronic invoice format, pursuant to that established under the Second Final Provision.

Section 6. Technical conditions for sending electronic invoices to the General State Administration or the public organisations linked to or dependent on the former.

The same conditions as established in general in Section 4 shall be applicable to the invoices issued on electronic media by the Public Administrations included within the scope of application of this Order.

First final provision. Authorisation to modify or establish the invoice and electronic signature format.

The Secretary of State for Telecommunications and the Information Society and the Secretary of State for the Treasury and the Exchequer are empowered to modify, by way of joint resolution and following report from the Higher Council for Electronic Administration and the National Heritage Department, the invoice and electronic signature format or to establish others, which shall be included in the Appendix to the Order and published in the "Boletín Oficial del Estado" (Official State Bulletin) and on the web page www.facturae.es.

Second final provision. Evolution of the electronic invoice format.

The electronic invoice format established in the Appendix shall be adapted, once two years have elapsed from the date of coming into effect of this Order, to the UBL (Universal Business Language) format or, if appropriate, to the format established by the European Committee for Standardisation (ECS)

or the CENELEC (European Committee for Electrotechnical Standardisation), in such a way as to allow the interoperability of the invoices issued by any of the European Union Member States.

Third Final Provision *Coming into effect*.

This Order shall come into effect the day following its publication in the "Official State Bulletin". Madrid, 5 October 2007.–First Vice-president of the Government and Minister of the Presidency, Maria Teresa Fernández de la Vega Sanz.

APPENDIX

Electronic Invoice Format

1 The electronic invoice format established under this Order is the "Facturae" format.

2 The format is described by way of an XSD, XML Schema Definition, the main components of which are set out below.

3 Note that only the main components of the "Facturae" format are published here and in no way do they represent the full format.

4 It has been done in this manner for better understanding. Therefore, many of the components appear with the sign "+". This means that the component has not been fully described in this Appendix. You will find the entire description in the full schema.

5 The aforementioned schema is available, complete and fully updated on the web page www.facturae.es and accessible through the link "Facturae Format Schema". It is necessary to visit the aforementioned web page to carry out a real download of the schema in order to later adapt it to a specific application.

6 The "Extensions" component makes it possible to incorporate new structured definitions when they are of joint interest to the issuers and addressees, and are not already defined.

7 The "signature" component is a set of data associated to the invoice that guarantees the authorship and integrity of the message. Although established as optional, to facilitate verification and file transfer, this component should be completed for the invoice to be considered a legally valid electronic invoice in respect of third parties. The signature policy document to be used with some Public Administrations within the scope of application of this Order and which should follow the "Facturae" format, is also available on the web page www.facturae.es, access link " Facturae Format Signature Policy". Said document contains the format this component should have. This signature policy shall be adapted to that established by the General State Administration.

8 The Secretary of State for Telecommunications and the Information Society and the Secretary of State for the Treasury and the Exchequer are responsible for publishing and maintaining the format updated and for guaranteeing the accessibility, integrity and non-alteration of the format included in the web page (www.facturae.es).

Consult the Official State Bulletin (BOE)