

ORDER EHA/962/2007, of 10 April, which develops certain provisions related to online invoicing and electronic invoice storage, contained in Royal Decree 1496/2003, of 28 November, which approved the Invoicing Obligations Regulations.

The obligations related to invoice issuance and storage have been set out, under the legal authorisations established for said purposes, in Royal Decree 1496/2003, of 28 November, which approved the Invoicing Obligations Regulations.

Sections 17 and 18 of the aforementioned Regulations deal with the way in which invoices, or substitute documents, may be sent and, in particular, their sending by electronic means, establishing the procedures whereby sending may be carried out, which, in any case, must guarantee authenticity of origin and content integrity. Section 19 and subsequent sections in the aforementioned law regulate the storage of invoices, or substitute documents and, in particular, Section 21 regulates the storage of such documents using electronic means. Sections 18.3. and 21.3 establish that the Ministry of Finance shall draw up the provisions necessary to develop and apply the stipulations of the above mentioned sections.

Although not specifically defined, when the Regulations refer to invoices or substitute documents, they are referring to the original documents that contain the data established in said Regulations. Therefore, they are the documents that have been created by those who are obliged to issue them, whether they were issued by that same party, by the addressees or by third parties acting in the name and on behalf of the aforementioned parties who are obliged to issue these.

Therefore, only original invoices and substitute documents, as well as the copies and duplicates of these, will have the value of receipt that the tax regulations give them, respectively, and such consideration will not be given to those obtained by the addressees without the intervention and acceptance of the party obliged to issue them, with the exceptions set forth in this Order, as the authenticity of their origin and content integrity is not guaranteed.

The generalisation of the use of telecommunications and electronic mail for sending all kinds of messages, including invoices or substitute documents, makes it necessary to clarify the legal validity of those sent in electronic format to the addressee, as this practice should be accepted as valid to the extent that, as already indicated, it incorporates mechanisms that guarantee the authenticity of origin and integrity of the documents sent.

Although, until quite recently, the Tax Agency only recognised the electronic signature managed by the National Mint (*Fábrica Nacional de Moneda y Timbre*), the catalogue of accepted electronic signatures now also has others certified by the Tax Agency and included on its website, all of which are acceptable as electronic signatures for invoices. However, this Order clarifies that any other advanced electronic signature is fully valid, as long as it is based on a certificate recognised and generated by means of any of the secure signature mechanisms regulated under Section 3.3 of Electronic Signature Act 59/2003.

Likewise, the Order clarifies the requirements that must be met by electronic invoices received from abroad that use an electronic signature as a means of guaranteeing the authenticity of their origin and their content integrity.

In this context, Royal Decree 1496/2003, of 28 December, gives the Tax Agency the power to authorise certain practices, without assigning said power to any specific Department. This is the case of the authorisations considered under Sections 5.4, 18.1.c) and 19.4 of the aforementioned Regulations. This Order establishes the organisation that will be responsible for these authorisations and the requirements and procedures to be followed in such cases.

Section 19.1 of the Invoicing Obligations Regulations establishes the obligation to store the originals or copies, depending on the case, of the documents listed in said precept.

In general, invoices and substitute documents must be stored on the media on which they were originally issued and received, as this ensures the possibility of verifying, at any time, that they are originals.

As an exception, the Order includes the possibility that, in the event that the document is received by electronic means and signed with a recognised electronic signature or any other signature system validated by the Tax Agency in the terms described in the aforementioned Regulations and this Order, addressees that have the appropriate option in their signature verification mechanisms may print the document in a legible format, together with different graphic marks of authentication, produced as per the specifications in PDF 417, as stipulated in Resolution 2/2003, of 14 February 2003, from the Tax Agency's Directorate General and regarding certain aspects related to electronic invoicing. The invoice or substitute document thus stored is a valid option, the intention of which is to make it possible to reconcile the interests of business persons and professionals that wish to issue signed electronic invoices and those of the addressees that, due to their small size or low level of technological development, wish to store such documents on paper.

On the other hand, we are seeing a growing demand for digitisation of documents received on paper to be recognised as valid, thus enabling the substitution of the original paper documents by the corresponding files containing their graphic images and, thereby, allowing the destruction of large quantities of paper that comprise the original documents. This not only produces subsequent savings in management, document and archive handling, but it also favours a reduction in indirect tax expenditure.

This digitisation, however, must be carried out without detracting from the security and documentary guarantees provided, as receipts, by the original paper documents that are to be substituted, paper being the medium on which they are generally issued and received by business persons or professionals. This Order regulates a certified digitisation system that makes it possible to balance the public interest represented by the Tax Authorities and the interest of business persons and professionals who want to have a computerised document archive or database with all the graphic images of their paper invoices or other documents or receipts that they are obliged to store for the period of time stipulated under the General Tax Act.

For these purposes, the Order defines as certified digitisation the generation of a faithful and entire image of the original paper document that is to be substituted, fulfilling the technical specifications published in the Resolution dictated by the Tax Agency. Provisions are made for this digitisation process to be carried out by the taxable persons or a third party providing digitisation services employing, in both cases, certified digitisation software, the validation of which must be requested from the Tax Agency by the software development entities.

Furthermore, the Order specifies the requirements for obtaining the authorisation from the Tax Agency for the aforementioned certified digitisation software.

By virtue of the foregoing, I hereby stipulate:

Section 1 Purpose.

This order develops certain aspects related to sending and storing invoices and substitute documents within the framework of Royal Decree 1496/2003, of 28 November, which approved the Invoicing Obligations Regulations.

All references made in the Invoicing Obligations Regulations to the concept of invoice or substitute document shall be deemed to refer to an original document on physical or electronic media, created by the issuer obliged to carry this out and which has been sent or made available to the addressee, regardless of whether the material issuer is the taxpayer, its client or a third party

acting in the name and on behalf of the taxpayer and as long as it contains the content required under Sections 6 and 7 of the aforementioned Regulations.

Section 2 Sending invoices and substitute documents.

1. Pursuant to Section 17 of the Invoicing Obligations Regulations, the obligation to send invoices or substitute documents may be fulfilled by electronic means that guarantee their authenticity of origin and content integrity, as long as the addressee has given consent.

Consent may be given expressly by any means, either orally or in writing. Addressees who are receiving electronic invoices or substitute documents may, at any time, notify their suppliers of their wish to receive these on paper. In this event, suppliers must respect their clients' rights and comply with their requests from the moment the aforementioned notification is received.

Issue of documents on a specific medium, whether on paper or electronically, shall not condition the means whereby subsequent documents are sent to the same addressee, or the means whereby rectified invoices related to the former, or duplicates of previously sent invoices, are sent.

2. For the purposes of that established in Section 18.1.a) of the Invoicing Obligations Regulations, any **qualified electronic signature**, as defined in Section 3.3, Electronic Signature Act 59/2003, of 19 December, shall be valid, that is, any advanced electronic signature based on a qualified certificate and generated by a secure signature mechanism.

3. When the invoices or substitute documents are sent electronically and the option employed to guarantee their authenticity of origin and content integrity is the use of a qualified electronic signature system, pursuant to Section 18.1.a) of the Invoicing Obligations Regulations, the electronic signature applied shall be the one derived from the use of the **document issuer's certificate, even when said issuer is the addressee or a third party** acting in the issuance in the name and on behalf of the taxable person.

Copies of invoices issued by electronic means, sent to business persons or professionals who carry out the transactions, even in the case of invoicing by the addressee or third parties in the name and on behalf of the taxable person, shall include the electronic signatures in the same terms indicated in the previous paragraph.

4. In the **case of** electronic invoicing systems based on electronic data interchange (**EDI**) agreements, as defined in Section 2, Commission Recommendation 1994/820/EC, of 19 October 1994, regarding the legal aspects of electronic data interchange between the issuer and the addressee, pursuant to that established under Section 18.1.b) of the Invoicing Obligations Regulations, the electronic data interchange agreement between the parties must include precise indication of the means or procedures implemented in the invoicing system that make it possible to guarantee the authenticity of origin and the content integrity of the documents exchanged.

5. The invoices or substitute documents sent electronically and signed under **certificates that have expired**, been revoked or suspended at the time of issue shall **not be considered validly sent** to their addressees nor received by these.

Section 3. Authorisation of electronic invoicing systems at the request of the taxpayer.

1. When the **system used** by an electronic invoice issuer to **guarantee the authenticity of origin and content integrity** of the invoices or substitute documents sent electronically **cannot** expressly be **classified under** either letter a) or b) of Section 18.1 of the Invoicing Obligations Regulations (or what it is the same **Section 2-3 and 2-4 of this Order**), the party obliged to issue said documents must apply to the Tax Agency for **prior authorisation**, addressing the request to the Director of the Financial and Tax Inspection Department.

Said request must describe the elements or means that are to be applied to guarantee the authenticity of origin and content integrity of the electronically sent documents, so that these guarantees can be verified by the Tax Agency at any moment following their sending and during the period established for this purpose under the General Tax Act.

2. The control elements or means of control used are not, a priori, subject to any conceptual or technological restrictions, however, they must be detailed by the applicant and available to the addressee or the third party entity acting as the system's trusted third party, and in this last case, the third party entity must be identified in the application. Said control elements or means of control shall be accessible by the Tax Agency for the period established in this respect in the General Tax Act so that the aforementioned properties of authenticity of origin and content integrity of the documents received may be verified.

When the application submitted does not contain all the elements necessary to enable verification of the legislated requirements, the applicant may be requested to correct the defects in the application within a period of 10 days as from the day following notification of such request, being warned that failure to comply will be understood as meaning the applicant has abandoned the application, which will be shelved and no further steps will be taken. When response to the requested corrections has been given within the deadline, but it is considered that the defects found have not been corrected, the applicant will be notified that the application has been rejected, pursuant to that established under sub-section 4 below.

3. In order to carry out the aforementioned verification, the Financial and Tax Inspection Department may obtain any complementary information it deems necessary to verify the accuracy of that declared by the applicant as well as to carry out any additional checks it deems appropriate.

4. Once it has been verified that all the requirements established in this Order have been met, the Director of the Financial and Tax Inspection Department will approve the authorisation to issue electronic invoices using the system proposed by the applicant, assigning the authorisation an identification reference number. The approval resolution will include a description of the terms under which the authorisation is granted. Otherwise, the causes that prevent granting the authorisation will be set out in the application rejection notification. An appeal for review of the decision issued may be submitted to the Director General of the Tax Agency.

5. The Director of the Financial and Tax Inspection Department will decide on the request for approval within a period of six months. If, for any reason verification has not been completed within this period or no express decision has been issued, the application shall be deemed as rejected, based on administrative silence.

6. The authorisation referred to in this Section may be applied for by business persons or professionals or any other person or entity that are obliged to issue invoices or substitute documents

and are established or resident in Spain.

Section 4. Electronic invoices received from third countries.

1. In order to guarantee authenticity of origin and content integrity, the requirements applicable to electronic invoices or substitute documents received from third countries shall be the same as the requirements applicable to those issued and sent within Spanish territory, regardless of their media or electronic format.

2. **When** the documents received by electronic means **employ an electronic signature mechanism system to guarantee their authenticity of origin and content integrity**, said signature must be a **qualified electronic signature**, which shall be deemed as that which, pursuant to the text of sub-section 1, Section 18 of the Invoicing Obligations Regulations, fulfils the provisions of sub-section 2, 6 and 10, Section 2 of European Parliament and **Council Directive 1999/93/EC**, dated 13 December 1999, which establishes an EU framework for the electronic signature and which, in turn, is corresponded by the concept set forth, within Spanish legislation, in Section 3.3 of Electronic Signature Act 59/2003, dated 19 December.

3. In the event that the system used to send electronic invoices or substitute documents is a qualified electronic signature, **the addressee of the document, resident in Spain, will be responsible for verifying**, prior to accepting receipt, that the electronic signature used is a **qualified electronic signature** pursuant to that established in the above paragraph.

That established in the previous paragraph **may be fulfilled, among others**, by any of the following means:

a) **When the certificate in question is issued by a certificate services authority resident in a European Union Member State**, it will only need to meet any of the following requirements:

1. The certificate indicates within its content that it is an approved or recognised certificate, in the sense regulated under the European Parliament and Council Directive 1999/93/EC, dated 13 December 1999, and that the issuing entity is resident in a European Union country and its certification practices and policies are accessible and public, with specific recognition of fulfilment of the requirements under said Directive that must be met by recognised or approved certificate issuing entities.
2. The certification entity has been duly accredited for said purposes by an entity established in the European Union under a voluntary accreditation schema designed to improve the levels of provision of certification services, pursuant to sub-section 2, Section 3 of the European Parliament and Council Directive 1999/93/EC, dated 13 December 1999.
3. The certification entity has been registered as such in any public registry controlled by the authority of the Member State responsible for dealing with electronic signature issuance or by the authority responsible for dealing with the country's tax controls for Value Added Tax or direct taxes.

b) **Certificates issued by a certificate services authority that does not have its residence in any European Union country** will require accreditation that the certificates are recognised or approved certificates and that their issuing entity has also been approved to issue such certificates, in any of the following manners:

1. Fulfilment by the certification services provider of the requirements established under the European Parliament and Council Directive 1999/93/EC, dated 13 December 1999, and accreditation within the framework of a voluntary accreditation schema in a European Union Member State.
2. Certificate endorsement by a certification services provider established in the European Union that fulfils the stipulation of the European Parliament and Council Directive 1999/93/EC, dated 13 December 1999.
3. Recognition of the certificate or the certification services provider by virtue of a bilateral or multilateral agreement between the European Union and third countries or international organisations.
4. Addressees must have the signature verification software and procedures that enable them to verify the validity of foreign certificates, in the same terms as that established under paragraph three, sub-section 4, Section 6 of this Order.

Section 5 Obligation of the issuer to store invoices and substitute documents.

1. Business persons or professionals must store, for the period established by the General Tax Act, the documents referred to in Section 19.1 of the Invoicing Obligations Regulations. ([storage of the matrix of invoices is sufficient](#))

This obligation may be fulfilled directly by the taxable person or by a third party, acting in the name and on behalf of the former, with whom said third party must sign the corresponding service level agreement. In any case, **the taxable person shall be solely responsible** for complying with all the obligations established under Section 19.1 of the aforementioned Regulations, and must ensure the existence of the necessary backup copies and that the necessary technical means and contingency plans are applied to guarantee recovery of computer files in the event of any destruction or failure of the system used to store electronic invoices or substitute documents.

2. **Copy of an invoice** or substitute document, on paper, is deemed as a document on the same medium, in the same format and with the same content as the original and which may include an indication of said nature, such as the term "copy". In the case of electronic invoices or substitute documents, the copy is a file identical to the original. When the original has been signed electronically, "copy" refers to the signed file. **Matrix of an invoice** or substitute document, or a set of invoices or substitute documents issued is deemed to mean a structured set of data, tables, databases or file system that contains all the data shown on the invoices or substitute documents, together with the programs or applications that enable the issuer to generate the invoices or substitute documents and obtain copies and duplicates.

3. The management and storage of the documents issued, referred to in Section 19 of the Invoicing Obligations Regulations, as well as of the copies or matrices of these documents must be carried out in an ordered manner, in such a way that, regardless of their format and media, and particularly when the latter is electronic, the legibility of said documents, copies or matrices is guaranteed, and the taxable person is obliged, when appropriate and upon request from the Tax Agency, to supply the deciphered and decoded data when they are not self-explanatory.

Furthermore, the taxable person shall give full access to such documents, without unjustified delay. Full access is deemed as meaning that which enables direct consultation of each and every one of the stored documents, copies or matrices, whatever their media.

When the documents issued and the copies or matrices of documents are managed and stored using a computer system and, therefore, they are on electronic media, whether in a local or remote storage system, **full access shall be deemed as** meaning that which enables **online consultation** of the data that allows all the details of their content to be viewed; **selective search** for any of the data that should be included in the registers regulated under Section 62 and subsequent sections of Royal Decree 1624/1992, of 29 December, which approved the Value Added Tax Act; **online copying or downloading** in their original formats, and **printing on paper** of any documents necessary to carry out checks or for documentation of tax control actions.

Section 6 Addressees' obligations regarding electronic storage of invoices and substitute documents.

1. Business persons or professionals must store, for the period established by the General Tax Act, the documents referred to in Section 19.1 of the Invoicing Obligations Regulations.

When invoices or substitute documents are received on electronic media, accompanied by a recognised electronic signature or any other that has been accepted or approved by the Tax Agency, **addressees must verify the signature and have the internal control procedures that they consider appropriate to verify the validity of the certificates used.**

2. The storage obligation refers to invoices and substitute documents received in the format and on the original media in which they were sent, unless the addressee opts for any other authorised alternative means of conversion included in Sections 7 and 8 of this Order, in which case storage shall refer to those formats and media.

Any conversion of media or format of the documents received carried out by the addressee, **other than those set out in Sections 7 and 8 of this Order**, will produce a new document, which **shall not be deemed as an original.**

3. The management and storage of the documents received must be carried out in an ordered manner, in such a way that, regardless of their format and media, and particularly when the latter are electronic, their legibility is guaranteed, and the taxable person is obliged, when appropriate and upon request from the Tax Agency, to supply the deciphered and decoded data when they are not self explanatory.

4. Furthermore, **the taxable person shall give full access to the invoices** or substitute documents received, without unjustified delay. Full access is deemed as meaning that which enables direct consultation of each and every one of them, whatever their media.

When the documents are managed and stored using a computer system and, therefore, they are on electronic media, whether in a local or remote storage system, **full access shall be deemed as** meaning that which enables **online consultation** of the data that allows all the details of their content to be viewed; **selective search** for any of the data that should be included in the registers regulated under Section 62 and subsequent sections of Royal Decree 1624/1992, of 29 December, which approved the Value Added Tax Act; **online copying or downloading** in their original formats, and **printing on paper** of those invoices or substitute documents necessary to carry out checks or for documentation of tax control actions.

When the invoices or substitute documents received include electronic documents that were sent **employing an electronic signature**, as stipulated in the above sections in this Order, as a means of guaranteeing the authenticity of origin and content integrity, **the addressee must store**, in an ordered manner, not only the electronic invoices or substitute documents received, but also the **electronic signatures** associated to each of the aforementioned, when these are not included in the file that contains the document in question. Furthermore, **the addressee must have the signature verification mechanisms** and internal control procedures to guarantee the validity of the electronic signatures used by the issuers, so that an alert is given on any that may have expired, been revoked or suspended at the time of issue.

5. **When the issuer and/or receiver of the electronic invoices** or substitute documents are **third parties** acting in the name or on behalf of taxable person, they must **fulfil the requirements** expressed herein **above**. **However**, once these requirements have been met, **they may make available to their clients computer applications that manage a repository for invoices** or substitute documents issued or received, as appropriate, together with the electronic signature generated or verified pursuant to the terms of this Order, **providing a message authentication code** associated to each document. This code will enable access to the associated document in the repository and will guarantee, for the party gaining access, that it fulfils the requirements set forth in this Order.

In the case of that established in the previous paragraph, **a document printed on paper with this code shall be valid**, as in Section 8, **as long as the aforementioned repository where the document and its electronic signature are located is maintained**, said repository contains a signature verification mechanism, and it is possible to gain full access to the document by way of said electronic authentication code.

Section 7. Certified digitisation of invoices received and substitute documents received and other documents or receipts.

1. The taxable person may carry out certified digitisation of the invoices, substitute documents or any other documents stored on paper, as originals.

Invoices, substitute documents or other documents thus digitised will enable the taxable person to dispense with the paper originals from which the digitised copies were made.

2. **Certified digitisation** shall mean the technological process that makes it possible, through the application of photoelectronic or scanning techniques, to convert the image contained on paper into a coded digital image, in any of the standard formats commonly used and with a level of resolution that is accepted by the Tax Agency.

This digitising process must meet the following requirements:

a) The digitisation process **must be carried out by** the taxable person or a third party providing digitisation services in the name and on behalf of the former using, in both cases, digitisation software certified pursuant to sub-section 3 of this Section.

b) The digitisation process employed must guarantee that a true and entire image is obtained of each digitised document and that the digital image is signed with an electronic signature pursuant to that established in the previous Section, through an electronic certificate installed in the digitising system and invoked by the certified digitisation software. This **certificate must correspond to the taxable person, when the certified digitisation is carried out by said taxable person, or, otherwise, to the provider of the digitisation services**. One or the other, as appropriate, must have the procedures and controls necessary to guarantee the faithfulness of the certified digitisation process.

c) The **result** of the certified digitisation must be **organised in** a document **database** and each digitised document stored in a data record with all the fields applicable for register management regulated under Section 62 and subsequent sections of Royal Decree 1624/1992, of 29 December, as well as a field containing the binary image of the digitised document, or one that links with the file that contains it, in both cases with the electronic signature of the image of the document as indicated in point b).

d) The party obliged to store the documents must have certified digitisation software with the following functionalities:

1. Database signature that guarantees the data and image integrity at the close of each settlement period to which the tax person is subject.

2. **Full access**, without unjustified delay, **to the database**. For these purposes, full access shall be deemed as meaning that which enables **online consultation** of the data that allows all the details of their content to be viewed; **selective search** for any of the data that should be included in the registers regulated under Section 62 and subsequent sections of Royal Decree 1624/1992, of 29 December; **online copying or downloading** in their original formats, and **printing on paper** of any documents necessary to carry out checks or for documentation of tax control actions.

3. **Development entities** that **wish to be granted approval of digitisation software** that meets the requirements established under sub-section 2 of this Section must complete the following **formalities**:

a) Interested entities shall submit an **application** addressed to the Director of the Tax Agency's Tax IT Department (**also named Computer Department**), which must contain a signed declaration that they fulfil the requirements established in this Order, **accompanied by the documentation** that proves said fulfilment.

Specifically, the applicant shall provide, together with the application, the **technical standards** that form the basis of the certified digitisation procedure for which approval is sought, and the protocols or standards and procedures for security, control and operation related to the creation of queries to the document database that contains the digitised images of the original paper documents supplied by the taxable person, as well as the electronic signature mechanisms used.

b) Additionally, the documentation provided shall contain a **report issued by an independent computer auditing entity** with accredited technical solvency in their area of analysis and evaluation of the activity, in which said entity expresses an opinion regarding the applicant entity's fulfilment of the conditions established in this Order for acceptance of the certified digitisation system for which approval is being sought and regarding the procedures employed.

c) **When the application submitted does not contain all the elements necessary** to enable verification of the legislated requirements, the applicant may be requested to correct the defects in the application within a period of 10 days as from the day following notification of such request, being warned that failure to comply will be understood as meaning the applicant has abandoned the application, which will be shelved and no further steps will be taken. When response to the requested corrections has been given within the deadline, but it is considered that the defects found have not been corrected, the applicant will be notified that the application has been rejected, pursuant to that established under sub-section e) below.

d) In order to carry out the aforementioned verification, the Tax IT Department may obtain any **complementary information** it deems necessary to verify the accuracy of that declared by the applicant as well as to carry out any additional checks it deems appropriate.

e) Once it has been verified that all the requirements established in this Order have been met, the **Director of the Tax IT Department will approve the digitisation software** submitted and its inclusion in a list that will be made public on the Tax Agency's web page, www.agenciatributaria.es. The approval resolution will include a description of the terms under which the approval has been granted and its identification reference. **Otherwise**, the causes that prevent granting the authorisation will be set out in the application rejection notification. An appeal for review of the decision issued may be filed with the Director General of the Tax Agency.

The Director of the Tax IT Department will decide on the request for approval within a period of six months. If verification has not been completed within this period or no express decision has been issued, the application shall be deemed as rejected, based on administrative silence.

g) The **application** referred to under this Section **may be made** by any **development entity** established in **Spain** or in any **European Union** Member State.

Section 8 Printing invoices and substitute documents sent in electronic format.

In general, invoices and substitute documents sent electronically must be stored by the addressees in the same electronic format they were sent, without any conversion, together with the means that guarantee their authenticity of origin and content integrity. Nevertheless, when the documents are sent by electronic means and signed with an electronic signature in the terms set forth in the above Sections of this Order, **the addressee** taxpayers **who wish to store them on paper**, after verifying the signature, may carry out this media conversion using the corresponding option of software that makes it possible to print on paper, together with the content of the document, the two sets of **PDF/417 codes**, considering both as graphic marks of authentication. The first of these codes shall include all of the data content of the invoice or substitute document, as they were signed at the time of issue, and the second shall contain the electronic signature of the aforementioned file and all the elements that enable verification of the signature, in a standardised manner and following reading, In the event that the electronic signature is embedded in the file that contains the invoice or substitute document or if the document's data is contained in the electronic signature format, it will be sufficient to print a single set of graphic marks that includes all the data of the file or format of the electronic signature.

The **graphic marks shall have the following characteristics:**

a) They shall enable reading for regeneration of the original files and shall maintain data redundancy to enable reading even in the event that the code has partially deteriorated. This characteristic shall be achieved using an error correction level of 5 of the specification mentioned under sub-section c) of this Section. Byte compaction BC mode shall be used to enable information codification in BASE code 64 format.

b) The marks shall be placed in a rectangular print area, the top left of which shall always have the same absolute co-ordinate as the top left of the paper, which will be DIN A4 format, printed in portrait format.

c) In order not to limit the maximum length of data, MACRO PDF417 will be used. The procedure called Truncated PDF417 should not be used, thus making it possible to guarantee the graphic marks generated. The optional information fields defined in the specifications of the procedure should be used to include the description of each file in the graphic mark.

d) For the purposes of this Section, PDF417 shall mean a multiline bar code pursuant to the Uniform Symbology Specification-PDF417 published by the standards development association (AIM), accredited by American National Standards Institute.

Section 9 Issuance and storage of invoices and substitute documents outside of Spain

1. The **addressees obliged to store** the original invoices or substitute documents **and the issuers** who are **obliged to store** the copies or matrices of the invoices **may establish the place for storage** of the aforementioned documents **within Spanish territory or outside of Spain, as long as** they make all the documentation or information thus stored **available to Tax Authority** body carrying out any verification of their tax situation, upon request from said body and without unjustified delay.

2. When storage is performed **outside of Spain**, the aforementioned obligation shall **only** be deemed duly fulfilled if it is complied with **employing electronic means** that **guarantee complete access** to the remote computer storage system and **without unjustified delay** and, therefore, storage outside of Spain will not be acceptable for documents stored on paper.

For the purposes of that established in the previous paragraph, **full access to the remote computer storage system shall be deemed as** meaning that which enables **online consultation** of the data that allows all the details of their content to be viewed; **selective search** for any of the data that should be included in the registers regulated under Section 62 and subsequent sections of Royal Decree 1624/1992, of 29 December; **online copying or downloading** in their original formats, and **printing on paper** of any documents necessary to carry out checks or for documentation of tax control actions.

When the place chosen for storage by the taxable person, or by third parties acting in the name and on behalf of the taxable person is **a third country not belonging to the European Union** or with which there is not a **legal agreement** regarding mutual assistance in an area of application similar to that contained under Council Directive 76/308/EEC, dated 15 March 1976, which regulates mutual assistance for the collection of credits corresponding to certain exactions, taxes and other measures, and under Council Directive 77/799/EEC, dated 19 December 1977, regulating mutual assistance between the competent authorities in Member States in issues related to direct taxes and taxes on insurance premiums, and under EC Council Regulation no. 1798/2003, dated 7 October 2003, regarding administrative co-operation in Value Added Tax issues, which repealed EEC Regulation no. 218/92, invoices or substitute documents **many only be stored in said third countries** when storage is **carried out directly by the taxable person**, with **prior notification** to

the Tax Agency, or **when it is entrusted to third parties** other than the taxable person following the **procedure detailed in sub-section 4** of this Section.

(It is no laid down in this Order, but it is laid down in the Royal Decree 1486/2003 Article 22 that any storage abroad needs a prio notification to the Tax Agency. Besides this Order establishes an authorisation to the Tax Agency if the storage is carried out by a third party non-resident in European Union nor legal agreement countires. Another factor in)

3. The **procedure** to be followed in the **administrative authorisation** regarding invoices and substitute documents stored in third countries, in the terms established in the previous paragraph, **shall also be applicable to the cases for authorisation established in relation to the issuance** of invoices or substitute documents by clients or third parties providing non-resident invoicing services within Spanish territory in the name and on behalf of business persons and professionals resident in Spain.

(Authorisation stablished regarding to the issuance it is not laid dow in this Order but it it laid down in Royal Decree 1486/2003 Article 5, related to this Order. In summary authorisation is only required when the issaunce is carried out by a third party non-resident in European Union nor legal agreement countires)

This procedure **may only be requested by business persons or professionals established** or resident **in Spain** who are interested in issuing or storing invoices or substitute documents in respect of which they are the taxpayer with the obligation for their issue or storage. Applications will not be accepted from service providers resident abroad seeking to validate their systems to provide services to entities resident in Spain.

4. **The procedure** to which the preceding points refer will be as follows:

a) Prior to commencing the issuance or storage of the invoices or substitute documents, the party interested in said issuing or storage shall address a request for authorisation to the Director of the Tax Agency's Tax Management Department, which will be the body with the power to decide.

To process the application, the Tax Management Department may request the reports it deems appropriate.

b) For a decision to be taken in the matter, the interested party shall be obliged to provide any information that may be necessary for the Tax Agency to evaluate the guarantees provided as regards the access levels to the remote computer systems and the security and reliability of the systems, for which the entities may be requested to have an IT audit carried out by an international company of recognised prestige.

In the case of invoice issuing systems, it will be assessed whether or not the electronic invoicing systems proposed for Spanish residents to operate abroad fulfil the essential guarantees of authenticity of origin and content integrity of the invoices issued and if the contracts between the obligated parties and the clients or third party issuers are pursuant to legal requirements.

Among other requirements, the Tax Agency may request, in the case of a third country other than those belonging to the European Union, a written undertaking for collaboration, if necessary, with the Spanish Tax Authorities from the tax agency corresponding to the location of the remote data system. For said purpose, the Spanish IT auditors designated must be permitted to collaborate actively with the existing ones, if any, in the remote country to carry out the analysis and auditing of said remote computer storage systems and, likewise when appropriate, to obtain the information regarding the invoices stored there that refer to the taxable person established or resident in Spain.

In the case of a European Union country, the European laws on mutual assistance shall be applicable.

c) When the application submitted does not contain all the elements necessary to enable verification of the legislated requirements, the applicant may be requested to correct the defects in the application within a period of 10 days as from the day following notification of such request, being warned that failure to comply will be understood as meaning the applicant has abandoned the application, which will be shelved and no further steps will be taken. When response to the requested corrections has been given within the deadline, but it is considered that the defects found have not been corrected, the applicant will be notified that the application has been rejected, pursuant to that established under sub-section e) below.

d) Following analysis of the information provided together with the initial application, the documents specifically requested and the checks considered necessary, the body that has studied the system shall issue the corresponding report, which will serve as basis for the Director of the Tax Management Department to take the corresponding decision.

e) Once it has been verified that all the requirements established in this Order have been met, the Director of the Tax Management Department will approve the requested authorisation, assigning it an identification reference number. The authorisation approval may establish specific conditions for acceptance of the issuing and storage system for which the authorisation is requested.

In the event of rejection, the causes that prevent granting the authorisation must be reasoned. An appeal for review of the decision issued may be filed with the Director General of the Tax Agency.

f) A decision must be reached in the matter within a period of six months. Once this period has elapsed without any express decision having been issued, the application shall be deemed to have been rejected, based on administrative silence.

First additional provision. Other formal obligations.

In order to allow the administrative checks as regards the documents regulated under this Order, all legible computer data, suitable for process by computer means other than those used for their creation, must be stored for the periods established under the tax laws.

For this purpose, the computer applications used by the taxable person to generate the data must have the appropriate data export functionality that guarantees, when appropriate, that they may be imported into computer systems and applications other than those used by the taxpayer when they were created and that these are accessible on the market when the Tax Agency needs to verify the taxable person's data.

Second additional provision. Authorised invoicing systems scheme.

1. All online invoicing exchange systems authorised on the date this Order enters into effect, pursuant to sub-section Four, Order dated 22 March 1996, which set forth the application rules for online invoicing systems established in Section 88, Value Added Tax Act 37/1992, dated 28 December, shall remain valid.

2. All the invoicing systems approved pursuant to sub-section 2, Section Five, Order HAC/3134/2002, dated 5 November regulating the new online invoicing scheme established under Section 88, Value Added Tax Act 37/1992, dated 28 December, and Section 9 bis of Royal Decree 2402/1985, dated 18 December, regulating the business persons and professionals' obligation to issue and deliver invoices, shall remain valid in the terms and conditions authorised, without the need for a new authorisation pursuant to this present Order.

3. No modifications to such authorised systems will be accepted unless they are necessary to adapt the systems to the new requirements established under the Invoicing Obligations Regulations, approved in Section One of Royal Decree 1496/2003, dated 28 November and developed by this Order.

In the event that any modification is necessary to the authorised systems, the interested parties must send prior notification to the Financial and Tax Inspection Department, which will decide based solely on fulfilment of the requirements that have to be met under said Regulations and this Order.

Third additional provision. Electronic certificates of certification and electronic signature services providers.

Within the scope of this Order, the entities providing certification and electronic signature services may also carry out their service rendering activities if these have to be carried out with electronic certificates issued by said entities, with the scope and limits established in the corresponding declaration of certification practices.

Sole repeal provision.

Order HAC/3134/2002, dated 5 December, regulating the new development of the online invoicing scheme established in Section 88, Value Added Tax Act 37/1992, dated 28 December, and Section 9 bis of Royal Decree 2402/1985, dated 18 December, are hereby repealed.

First final provision. Authorisation of the Director General of the Tax Agency.

The Director General of the Tax Agency is hereby authorised to dictate whatsoever decisions that may be necessary for the application of this Order.

Second final provision. Coming into effect.

This Order shall come into effect the day following its publication in the "Official State Bulletin".

Madrid, 10 April 2007.—Second Vice-president of the Government and Minister of Economy and Finance, Pedro Solbes Mira.