

Invoices secured by electronic signature: BOFIP update announced!

By Vanessa Irigoyen , Delphine Nicault , Morgiane Quartana / March 12, 2020

Ministerial response of 10 March 2020

The Minister of Economy and Finance has just announced that an update to the comments of the Official Bulletin of Public Finance (BOFIP) relating to electronic invoices with an electronic signature is planned, in order to improve the readability of regulations in this area.

It also recalls that the current administrative doctrine does not require that the electronic signatures used by companies in order to guarantee the authenticity, integrity and readability of their electronic invoices comply with the RGS standard of level 2 or 3 stars, s " these are so-called "qualified" electronic signatures within the meaning of the European eIDAS regulation.

According to article 153 of the finance law for 2020 promulgated on December 28, all invoices issued between those subject to VAT must be issued in electronic form, and the data on these invoices electronically transmitted to the administration.

This requirement, which exists for billers to the State or any public institution, should apply in all B2B relationships as of 1st January 2023 and no later than the 1st January 2025 according to size of the company and its sector of activity. The administration is currently studying the modalities of this generalization.

It is in this context that a Member drew the attention of the Minister of Economy and Finance to the regulations relating to electronic invoicing and to a possible risk of tax security for companies, due to a discrepancy between current regulations and old texts which have not been modified to date.

Indeed, the doctrine currently in force (BOI-TVA-DECLA-30-20-30-30) refers to the need to seal the invoice with an electronic signature (or "server stamp") in accordance with the General Security Reference (RGS) at 2 or 3 star level, with the aim of "guaranteeing the authenticity of the origin and the integrity of the content of the electronic invoice", without referring to the European eIDAS regulation (Regulation (EU) n ° 910 / 2014), yet directly applicable in all Member States of the European Union since 1st July 2016.

Thus, while the government has embarked on a process of generalization of the electronic invoice, it is asked to position itself on an equivalence between the "RGS" practices imposed by the doctrine and the level of advanced electronic signature based on a qualified certificate provided for in the eIDAS regulation.

In his response, the Minister of Economy and Finance declared that any taxable person who uses the "qualified" electronic signature procedure within the meaning of the "eIDAS" regulation, namely an advanced electronic signature based on a qualified and created certificate by a secure device within the meaning of this regulation, is deemed to fulfill the conditions set by French regulations in terms of electronic invoicing, exempting it in particular from documenting a reliable audit trail.

The Minister of Economy and Finance recalls that the administrative doctrine does not impose the use of an electronic signature conforming to the RGS standard of level 2 or 3 stars, in the case of electronic signatures called "qualified" in the sense of the "eIDAS" regulation.

An update of BOFIP's comments on invoices with an electronic signature is underway and should take place as part of the legal adaptations made necessary by the generalization of electronic invoices in B2B relations.



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