

What is and what is not an electronic invoice?

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Electronic invoice means an electronic invoice issued and received in any electronic format. A broader concept than electronic invoices is the concept of an invoice sent in an electronic form – explains Tomasz Krywan, an expert at LEX Accounting.

Currently, all provisions regarding electronic invoices are contained in the Act on tax on goods and services (upt). There is – as was the case in the past – no implementing rules for such invoices. Upt regulations, among other things, contain a definition of an electronic invoice.

What is an electronic invoice

As stated in art. 2 point 32 of the Act, **electronic invoice means an invoice in electronic form issued and received in any electronic format** . Electronic **invoices** are therefore **invoices sent in the form of structured messages** (such as XML) **as well as in other electronic formats** (e.g. in PDF format). The use of the conjunction "and" (and not "or") by the legislator means that the **conditions for issuing and receiving in any electronic format must be met jointly** . Consequently, electronic invoices can **only** be **invoices sent in electronic form** .

Therefore, they are not electronic invoices:

- issued in electronic form, and then printed and transmitted in paper form,
- issued in paper form, then scanned and sent or made available in electronic form.

An electronic invoice is a broader concept

A broader concept than electronic invoices is the concept of invoices sent in electronic form. Such a conclusion comes from the list of provisions of art. 106g paragraph 3 up to and art. 106n paragraph 1 up to (the first of the indicated provisions applies to invoices sent in electronic form, the second applies to electronic invoices). Therefore, it should be acknowledged that **invoices sent in electronic form are not only electronic invoices, but also invoices issued in paper form** , and then scanned and sent or made available in electronic form.

The use of electronic invoices requires the acceptance of the invoice recipient

At the same time as an art. 106n paragraph 1 of the Act, the use of electronic invoices requires the acceptance of the invoice recipient (the **recipient does not require the sending of electronic invoices** , which in the light of the above explanations are not electronic invoices). This acceptance can be expressed **in any form** , including orally. Acceptance can also be expressed implicitly, e.g. by paying an invoice sent electronically. As we read in the individual interpretation of the Director of the Tax Chamber in Łódź of July 21, 2016 (1061-IPTPP3.4512.281.2016.2.MK), "the Applicant's presented form of acceptance of electronic invoices, i.e. consent implicitly, by making a payment for a delivery or service documented by a given electronic invoice received via the System, meets / will meet the requirements of tax law".

A scan of an invoice issued in paper form is not an electronic invoice

In the light of the above, the scan of the invoice issued in paper form is not an electronic invoice. However, there is no obstacle for the invoice issued in paper form to be scanned and sent to the purchaser in electronic form (scan).

Invoicing buyers in two forms is risky

The practice of providing invoices to buyers in two forms (e.g. first in electronic form and then in paper form) is risky because it **raises doubts as to the moment of the buyer's right to deduct**, and threatens the recognition by tax authorities that **one act has been documented two invoices**. In particular, **you should advise against printing electronic invoices** (i.e. invoices issued and received by the buyer in electronic form) **and sending them in this form to the buyer** (especially after signing and stamping, which makes them different from the previously sent invoice).

There is no need to put the words: original or copy on electronic invoices

From the point of view of using electronic invoices and sending invoices in electronic form, it is not important to place words such as the original or a copy on them. Placing such words is not advisable even voluntarily, because it **suggests a different meaning of individual invoice copies**.

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