

COVID-19: Tolerance measure for scanned paper invoices sent by e-mail

Tax alert

In the context of the adoption several weeks ago of various emergency measures in the tax, VAT, social, legal and accounting matters related to the health crisis we are going through, the Public Finances Directorate General (DGFIP), in a memorandum from the Tax Audit Department dated 30 March 2020 and published on 2 April, proposes a tolerance measure for the exchange of invoices by electronic means.

In practice, for the duration of the state of health emergency, in the event of sending a digitized paper invoice by e-mail, it will be authorized for businesses that this type of invoice may - while retaining its nature as a "valid" invoice with regard to VAT and without prejudice to the exercise of the recipient's right to deduct purchase VAT - be addressed as such to the recipient (customer):

1. Without the need to send the corresponding paper invoice by post.
2. Without contravening the definition of electronic invoices (of which it is recalled that the entire process must be electronic within the meaning of Article 289 VI of the French Tax Code (CGI – Code Général des Impôts), without any break in the medium, which is precisely the case when invoices are (1) generated electronically via an information system (2) printed (3) then scanned (4) to be then sent by email to a customer)
3. Without fulfilling for their conservation (archiving) the specific conditions linked to article A 102 B 2° of the Book of Fiscal Procedures (LPF), resulting from the decree of March 2017 on the digitization of paper invoices sent/received.

In other words, this tolerance measure, which is aimed at companies for which all or part of their invoicing process is not already considered as "electronic or dematerialized" within the meaning of tax/VAT regulations, aims to facilitate the exchange of invoices by alleviating the tax and technical conditions linked to the sending of scanned invoices by email.

Of course, the tax authorities point out that in order to guarantee the authenticity of the origin, the integrity of the content and the legibility of these invoices, companies must continue to secure the probative value of the digitized invoices thus exchanged by setting up a reliable audit trail within the meaning of Article 289 VII 1° of the French Tax Code.

Regarding the methods for storing invoices, it is recalled in this respect that the aforementioned article A. 102 B 2° requires in principle the storage of the scanned invoice in PDF or PDF A/3 file, time stamped and accompanied by a cache server, a digital fingerprint, an electronic signature (RGS 1* level) or any equivalent secure device. For the storage of digitized sales invoices (electronic duplicates), these conditions are also applicable since 1 July 2018.

Thus, by way of tolerance, it will be allowed that companies, and in particular the customer receiving the scanned PDF invoice sent by email, may keep this invoice considered as "paper" as such (i.e. electronically).

However, at the end of the period of health emergency, it will be up to the parties to regularize their situation, in compliance with the regulations in force concerning the conservation of invoices (electronic or paper format). In this respect, it is recalled that a "secure legal archiving" of invoices (electronic or paper depending on the invoicing method chosen) is fundamental for companies in the event of an audit (meeting the criteria of a Legal Electronic Archiving Solution).

Finally, it should be emphasized that the implementation of this tolerance measure should concern only a small part of the invoicing flows of companies, i.e. small and medium-sized enterprises which could still apply this invoicing method. In the absence of clear governance in the area of archiving, the practical application and monitoring of the regularization measures desired by the Administration could also raise other organizational difficulties for taxpayers.