

News on electronic invoicing in Switzerland

Statement of the Swiss Federal Tax Administration on the proof of authenticity and integrity of electronic invoices

Indirect Tax Alert October 2016

Legal Framework in Switzerland

According to the Swiss VAT Ordinance an electronically transmitted invoice (electronic invoice) has the same evidentiary value as an invoice sent in paper format if the authenticity and integrity of the invoice can be verified. According to the Ordinance of the Federal Department of Finance on Electronic Data and Information (OEIDI) the authenticity and integrity of an electronic invoice can be verified when advanced or qualified digital signatures are used to safeguard the transmission and storage of the invoice. As no further guidance had been provided by the Swiss Federal Tax Administration (SFTA), the OEIDI has until recently been the only regulation explicitly addressing the requirements with respect to maintaining the evidentiary value of electronic invoices. As a result, electronic invoices have only been considered fully accepted by the SFTA for input VAT deduction purposes if the invoices are electronically signed.

This has been considered to be in conflict with the principle of free forms of evidence supported by the Swiss VAT Act, in accordance with which methods other than a qualified digital signature should be accepted in the context of verifying the proof of authenticity and integrity of electronic invoices.

Statement of the Swiss Federal Tax Administration given in September 2016

On 27 September 2016, the SFTA published a statement with respect to the use of digital signatures for safeguarding the integrity and authenticity of an electronic invoice. The statement explicitly states that there is no obligation to use digital signatures in order to evidence the authenticity and integrity of documents.

The SFTA confirms that for the purposes of transmitting and storing data relevant for claiming input tax, levying or collecting tax, regardless of whether the data carriers are paper form or electronic, it must be possible to verify the proof of authenticity and integrity. The SFTA further emphasizes that for electronic data such evidence is affirmatively provided if the electronic data has been digitally signed, as a digital signature would provide the most secure protection against undetectable changes. However, the SFTA also states that due to the principle of free forms of evidence, amongst others, other means to verify the integrity of electronic invoices cannot be ruled out. For instance, verification could be seen as provided if the requirements of the standard accounting principles mentioned in Article 957a Swiss Obligation Law are met. These accounting principles are valid for all types of invoices, irrespective of whether they are issued electronically or on paper.

Consequences

This is the first explicit statement of the SFTA that digital signatures are not necessarily required in order to ensure the authenticity and integrity of electronic invoices. While no alternative methods for verification have been suggested, this official statement confirming the meaning and acceptance of free forms of evidence allows businesses to re-consider possibilities to modernize their invoicing processes.

In light of the SFTA's statement, businesses should ensure that technical measures and/or business controls which enable verification of the integrity and authenticity of its accounts payable invoices, whether transmitted electronically or received in paper format, are implemented.

Our team of multidisciplinary experts is at your disposal for any further queries and would be pleased to support you in the analysis of the needs of your business, and to help you implement solutions.

Contact

Indirect Tax Switzerland

Barbara Henzen

Phone +41 58 286 62 14

barbara.henzen@ch.ey.com

Henrik Dummermuth

Phone +41 58 286 62 38

henrik.dummermuth@ch.ey.com

EY | Assurance | Tax | Transactions | Advisory

About the global EY organization

The global EY organization is a leader in assurance, tax, transaction and advisory services. We leverage our experience, knowledge and services to help build trust and confidence in the capital markets and in economies all over the world. We are ideally equipped for this task - with well trained employees, strong teams, excellent services and outstanding client relations. Our global purpose is to drive progress and make a difference by building a better working world - for our people, for our clients and for our communities.

The global EY organization refers to all member firms of Ernst & Young Global Limited (EYG). Each EYG member firm is a separate legal entity and has no liability for another such entity's acts or omissions. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information, please visit www.ey.com.

EY's organization is represented in Switzerland by Ernst & Young Ltd, Basel, with ten offices across Switzerland, and in Liechtenstein by Ernst & Young AG, Vaduz. In this publication, «EY» and «we» refer to Ernst & Young Ltd, Basel, a member firm of Ernst & Young Global Limited.

© 2016 Ernst & Young Ltd.
All Rights Reserved.

Disclaimer

This publication contains information in summary form and is therefore intended for general guidance only. Although prepared with utmost care this publication is not intended to be a substitute for detailed research or professional advice. Therefore, by reading this publication, you agree that no liability for correctness, completeness and/or currentness will be assumed. It is solely the responsibility of the readers to decide whether and in what form the information made available is relevant for their purposes. Neither Ernst & Young Ltd nor any other member of the global EY organization accepts any responsibility. On any specific matter, reference should be made to the appropriate advisor.

www.ey.com/ch