



TECHNOLOGY, MEDIA AND TELECOMMUNICATIONS ALERT

E-INVOICING – EASY, EFFICIENT AND EXPEDITIOUS

Sending invoices electronically (e-invoicing) is on the rise, mainly as a result of this form of invoicing being easy, efficient, and cost effective. E-invoicing is, however, not free from regulation and applicable legislation and regulations must be considered and complied with in order for e-invoices to be lawfully binding.

In terms of the Electronic Communications and Transactions Act, No 25 of 2002 (ECT Act), information will not be without legal force and effect merely on the grounds that it is wholly or partly in the form of a 'data message' (being data generated, sent, received or stored by electronic means). The ECT Act further provides that any requirement in law that a document or information be in writing will be met if the document or information is in the form of a data message and is accessible in a form usable for subsequent reference. E-invoices will be valid in law and binding if the legal requirements prescribed under the ECT Act are met.

These requirements include that:

- The e-invoice is accessible in a form in which it may be read, stored and retrieved by a customer, whether electronically or as a computer printout, as long as such information is capable of being reduced to electronic form by the party incorporating it.
- The information contained in the e-invoice is accessible and usable for subsequent reference.
- The integrity of the information contained in the e-invoice passes the assessment requirements prescribed under the ECT Act (that is an assessment of whether the information has remained complete and unaltered, the purpose for which it was generated and all relevant circumstances).
- Information required to be retained by law is accessible for subsequent reference, that is the e-invoice is accessible in the format in which it was generated, sent or received or an alternative format which can accurately represent the information.

- The origin or destination of the e-invoice and the date/time it was sent or received is determinable.

The ECT Act further provides that any signature requirement will be met where a method is used to identify the person and indicate the person's approval of the information communicated.

The Value-Added Tax Act, No 89 of 1991 (VAT Act) requires that an invoice be presented as a 'document'. Having regard to the provisions of the ECT Act, a 'document' includes a data message and accordingly, sending an invoice in electronic form will be acceptable for purposes of the VAT Act, subject to certain requirements being met. Registered vendors wishing to implement an electronic invoicing system must comply with s20 of the VAT Act, read with the VAT404 Guide for Vendors and VATNEWS 20, which has been made available by the South African Revenue Service (SARS) and is available on its website. The requirements imposed by SARS regarding e-invoicing are designed to facilitate effective auditing of e-invoices and to ensure conformity between paper and e-invoices. Failure to comply with these requirements may result in SARS imposing penalties and interest on non-compliant vendors.

There is no doubt that electronic invoicing will be beneficial to any vendor that utilises an electronic system. While some benefits include reducing costs, using less paper, real-time delivery, less administration, increase in billing process efficiency and improving customer satisfaction, vendors are cautioned not to replace existing paper based systems prior to ensuring compliance with all the requirements under the ECT Act and, to the extent applicable, the guidelines issued by SARS.

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