

## NEW PROVISIONS ON ELECTRONIC INVOICES

The new electronic invoices regulation of the Polish Minister of Finance (Regulation of 17 December 2010 on Electronic Transmission of Invoices and Rules for Storage and Presentation to Tax and Fiscal Audit Authorities) entered into force on 1 January 2011. The new rules considerably liberalize the provisions concerning electronic invoices.

Pursuant to the regulation, electronic invoices may now be issued in any electronic form accepted in advance (in writing or electronically) by the recipient. Before, there were only two acceptable forms for transmission of electronic invoices authorizing the recipient to deduct input tax from the invoices: secure electronic signature or electronic data interchange. Now the Minister of Finance has issued a list of permissible methods for electronic transmission of invoices, so long as the form selected by the taxpayer assures authenticity of origin and integrity of content of the invoice. Pursuant to the regulation, "authenticity of origin" means certainty as to the identity of the supplier of the goods or services or the issuer of the invoice, and "integrity of content" means that the information stated in the invoice is not altered. Although the regulation does not expressly refer to .pdf format, the regulation should be interpreted to permit the use of this format for issuance of invoices from 1 January 2011.

The rules for storage of electronic invoices have also been liberalized. According to the regulation, electronic invoices may be stored in any way, so long as they are divided into settlement periods and the storage method assures (1) authenticity of origin, integrity of content and legibility of the invoices from the date of issuance through the expiration of the tax obligation, (2) ease of location of the invoices, and (3) immediate access to the invoices for tax authorities and fiscal audit authorities. The regulation also provides that electronic invoices may be stored in electronic form outside of Poland, so long as tax authorities and fiscal audit authorities may be given online electronic access to the invoices.

For more information about this topic, please contact Aleksandra Faderewska-Waszkiewicz ([aleksandra.faderewska@laszczuk.pl](mailto:aleksandra.faderewska@laszczuk.pl)).

## AMENDMENT TO THE PERSONAL DATA PROTECTION ACT

Changes to the Polish Personal Data Protection Act will enter into force on 7 March 2011. As explained in the justification for the proposal, the need for the changes resulted from the experiences of more than ten years of application of the Act.

The new solutions introduced into the Personal Data Protection Act are, above all, the penalties for obstruction of an inspection and failure to perform decisions,

and the obligation to respond to inquiries made by the Inspector General for Personal Data Protection (GIODO).

The new provisions give GIODO the right to (1) impose fines for the purpose of enforcement, (2) submit inquiries to natural and legal persons concerning personal data protection, and (3) submit initiatives to the relevant authorities to enact new laws or amend existing laws involving personal data protection. Recipients of inquiries or motions from GIODO are required to present a position within 30 days after receipt.

Frustration or obstruction of inspection activities of GIODO inspectors will be an offence subject to a fine, probation, or imprisonment up to 2 years.

Other significant changes:

- Clarification of the definition of a data subject's consent to processing of data, to specify that consent may be revoked at any time.
- Repeal of Article 29 of the Act, concerning the special procedure for providing personal data. A credible justification of the need to obtain

personal data will no longer be an independent prerequisite for making data available to a third party, but the general rules concerning the lawfulness of data processing (Article 23(1) and 27(2) of the Act) should apply.

- Unification of the provisions of the Act and the form for registration of a data filing system, adding to the Act the obligation to include in the registration of a data filing system information concerning the entity to which the data controller has entrusted the data processing.
- A provision that the data controller is obliged to report a change in the information concerning a data filing system that has been registered, before the change is made, when the data processing is to be extended to include "sensitive" data.
- Introduction of the possibility to establish GIODO field offices.

For more information about this topic, please contact Agnieszka Kocon ([agnieszka.kocon@laszczuk.pl](mailto:agnieszka.kocon@laszczuk.pl)).