



Federal Ministry of Finance adapts principles for keeping records to technical developments

1 Background

On July 11, 2019 the Federal Ministry of Finance (BMF) published the new version of the Circular on the principles for the orderly keeping and retention of books, records and documents in electronic form and for data access. This comes as a result of calls from business representatives suggesting that the Circular, originating from November 2014, should be updated to reflect technical developments.

All in all, the amendment can be seen as positive: it creates up-to-date documentation options, relieves companies of their recording and storage obligations and creates clarity in previously existing controversial legal issues. Below is an overview of the most important changes.

2 Image capturing of receipts now also possible via smartphone

Probably the most relevant change is the explicit acceptance of the image capturing of documents by any technical means. This removes the legal uncertainties that have existed up to now. Documents received in paper form can now be scanned or photographed with smartphones and other mobile devices, as well as with multifunction devices and scanners. However, this only applies on the condition that all of the requirements laid down by the BMF's Circular are met, including that the electronic document matches the original image when it is made readable. It is also particularly important that sufficiently detailed procedural documentation for this process is available. As soon as the paper documents are visually captured in this way, they can be destroyed - provided no other archiving obligations exist.



Ronny Langer
Certified Tax Consultant,
Dipl.-FW (FH)

+49 (0) 89 217 50 12-50
ronny.langer@kmlz.de

3 Image capturing abroad

In this context, the scanning and photographing of documents by mobile devices abroad is logically permitted if the documents are created or received abroad and are directly captured there. This is particularly relevant for the recording of travel expense receipts during business trips abroad.

Changes have also been made in the context of an approved relocation of the electronic accounting abroad in accordance with sec. 146 para. 2a of the General Fiscal Code. The transfer of paper documents to the location of the electronic bookkeeping, as well as the digitisation there is now also expressly permitted. The image capturing is required to take place within a short time after the paper documents have been transferred abroad.

4 Relaxation of retention obligations in connection with conversion

When converting inbound documents to company-specific in-house formats, to date, both versions of the document have had to be archived together. This double retention obligation has now been relaxed. The retention of only the converted version should suffice. However, this applies only on the condition that no changes to or restriction of the contents result and that the possibility for the tax authorities to analyse the documents is not restricted and the conversion is documented.

5 Extension to Cloud Systems

In the draft amendment of the Circular published last autumn, cloud systems were included in the exemplary list of various data processing systems. In the final version, however, they were deleted from this list. Rather, it now makes it clear that companies can acquire and use the data processing systems in question as hardware or software, as well as operate them in a cloud or as a combination of the various systems. However, this must be taken into account: If electronic books or other electronic records are kept abroad via the cloud, an application must be made in accordance with sec. 146 para. 2a of the General Fiscal Code for the relocation of the electronic accounting abroad.

6 Change history for procedural documentation

For each data processing system, procedural documentation must be maintained for the purposes of compliance with the BMF's Circular, from which the content, structure, sequence and results of the data processing can be fully seen. The BMF makes it clear that changes to procedural documentation must be historically traceable. This includes versioning and a traceable change history.

7 Applicability

The amendments are applicable to all taxation periods commencing after 31 December 2019. However, optional application to tax periods ending prior to 1 January 2020 is also permitted.