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Use of digital signature and electronic maintenance of records under central excise and ST



Ravi Kumar Somani

on 25 July 2015

Government of India has in the recent past launched its dream initiative of **'Digital India'** which promises to integrate the government departments and the people of India ensuring that the government services are made available to citizens electronically and thereby increasing the work efficiency and reducing the paperwork. In order to implement the said initiative, steps were taken by the Central Board of Excise and Customs Central Excise in the union budget 2015 when Notification No. 8/2015-CENT was issued to provide that:



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“The records may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature.

An invoice issued by a manufacturer may be authenticated by means of a digital signature:

Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self attested by the manufacturer shall be used for transport of goods”.

Similar amendment was also introduced in the Service Tax Rules, 1994 vide Notification No. 5/2015-ST. Further it was informed that the board may, by notification, specify the conditions, safeguards and procedures to be followed by an assessee preserving digitally signed records or issuing digitally signed invoices.

In order to give effect to the above amendments, CBEC has recently issued a notification No. 18/2015 CE NT dated 06.07.2015 providing the conditions, safeguards and procedures to be complied. This article is intended to provide the insights of the said conditions and its practical applicability as explained below:

Type of Digital Signature Certificate (DSC) to be obtained

Every assessee proposing to use digital signature shall use **Class 2** or **Class 3** Digital Signature Certificate duly issued by the Certifying Authority in India.

Comments: Information Technology Act, 2000 has given legal recognition to digital signatures meaning that the digital signatures have the same value as

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handwritten or signed signatures affixed to a document for its verification. Hence there is no issue as for the validity of the same.

Generally, there are four classes of digital signature certificates viz Class 0, 1, 2 and 3, each class of Certificate provides specific functionality and security features and corresponds to a specific level of trust, Class 3 being highly secured and provides for higher level of trust. For the purpose of authentication under Central Excise & Service Tax only Class 2 or class 3 digital signature certificates are recognized as valid.

Class 1 and class 2 DSC's are used for basic purposes such as testing or to just check the validity of an email etc. whereas Class 2 DSC's are generally used for filing documents under Income Tax, Registrar of Companies and VAT etc. **Class 3** DSC's are used for more complex applications such as online e-tendering, e-commerce etc. which requires higher security levels and trust.

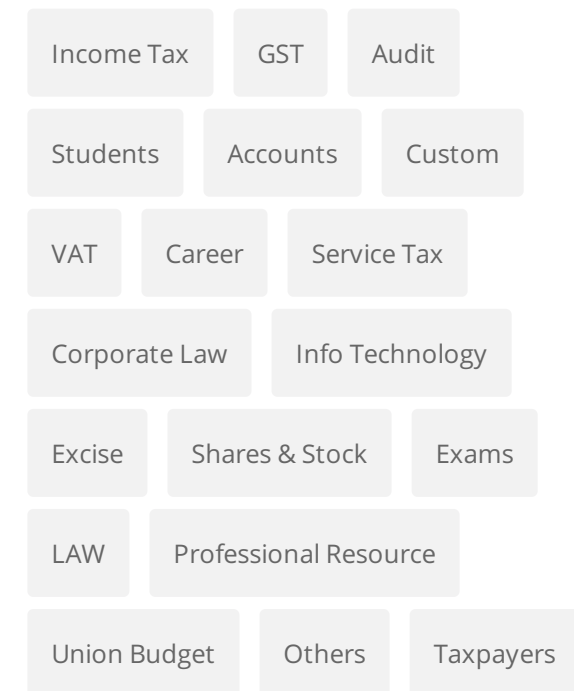
Prior intimation to AC/DC

2) Every assessee proposing to use digital signatures shall intimate the following details to the jurisdictional AC/DC, **at least 15 in advance**:

- a. Name, e-mail id, office address and designation of the person authorised to use the digital signature certificate;
- b. Name of the Certifying Authority;
- c. Date of issue of digital certificate and validity of the digital signature with a copy of the certificate issued by the Certifying Authority along with the complete address of the said Authority

Intimation of change in details

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In case of any change in the details submitted to the jurisdictional AC/DC, **complete details shall be submitted afresh** within 15 days of such change.

Intimation even if already using digital signature

Every assessee already using digital signature shall intimate to the jurisdictional AC/DC, the above details within 15 days of issue of this notification.

Comments: Although Central excise and service tax law has now explicitly provided for the use of digital signature/maintenance of electronic records but the same was followed by many assesses even before the existence of the said amendment, as digital signature/digital maintenance of records were given legal validity under section 4 of Information technology act, 2000 which overrides all other laws.

For all such assesses already using digital signatures, it is advised to intimate at the earliest, even though the last date of intimation (i.e. July 21, 2015) has already elapsed. This intimation is only required for the assesses already using digital signatures. It is not required for assesses already using electronic records.

Separate electronic records for each registration

It is specified that every assessee opting to maintain electronic records having more than one factory or service tax registration then shall maintain separate electronic records for each factory or each service tax registration.

Comments: In this regard, following must be noted:

a. Separate Daily Stock Accounts in electronic form must be maintained for each factory;

b. Separate output tax computations, CENVAT register must be maintained for each registered premises;

c. This requirement is only for electronic maintenance of records and not for digital signatures, therefore single digital signature shall suffice even for multiple registrations of the same assessee.

Submission of electronic records through e-mail or electronic storage device

Every assessee opting to maintain records in electronic form, shall on request by a Central Excise Officer in a letter or e-mail, produce the electronic records/invoices through e-mail or on a specified storage device in an electronically readable format for verification of the authenticity of the document.

Comments: Since, submission of records to central excise officers through e-mail is valid therefore, further acknowledgement from the department confirming the receipt of information may not be required unless a bounce back mail is received intimating the non-delivery of such e-mail. However, in case information is submitted in a specified storage device, then in order to safeguard the self interest it is advised to specifically obtain the acknowledgement of receipt on a letter head duly stamped and signed by the respective departmental officer clearly specifying the confirming the receipt of the information in electronic form.

Print-outs of the electronic records to submitted during audit, investigation etc.

Central Excise Officer, may during an enquiry, investigation or audit, under the provision of Central excise or service tax law may request an assessee to furnish duly signed printouts of the records in electronic form.

Preservation of e-records for a period of 5 years

Every assessee opting to maintain records in electronic form shall ensure that appropriate backup of records in electronic form is maintained and preserved for a period of 5 years immediately after the financial year to which such records pertain.

(For any suggestions, feedback or queries, write on ravi.somani03@gmail.com)

By CA Ravi Kumar Somani

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No separate registration required for electronic maintenance of records. But as per the recent notification cited above, an intimation is required to be submitted.

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