

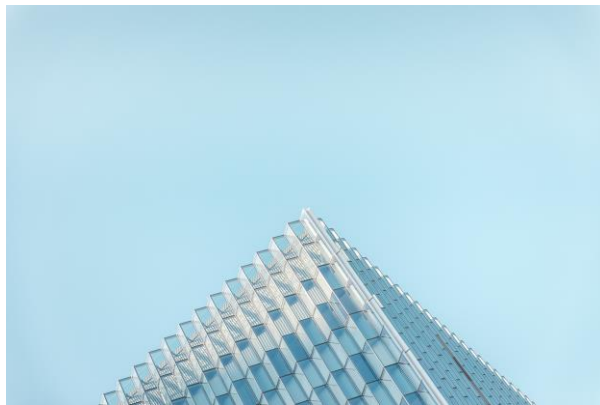


HR Electronic Records – Vietnam

Electronic Archiving of Paper Originals

Legal Framework for Electronic Archiving

Although some countries require certain types of documents to be kept and archived in their original paper form, for most categories of documents, including HR-related records, there is no such requirement, and it is generally acceptable to use electronic versions of paper records (i.e., scanned copies of paper originals) during most government agencies’ inspections and audits or in court proceedings.



The evidential or probative value of electronic versions of paper records may be more easily challenged before a court than it would be for the originals. This is mainly because the original records could be tampered with or changed before being scanned, and, unless proper technology has been used (e.g., encryption and

timestamping), it may not be easy to detect such changes from a scanned copy. In specific situations, it may be good practice for employers to retain archives of paper originals in the event such originals would be requested by a specific investigator, auditor, judge or authority.

Are electronic scanned copies of paper originals legally valid?

The legal validity of “data messages” in Vietnam cannot be denied solely because they are in an electronic format (Law on E-Transactions (No. 51/2005/QH11)). A “data message” includes information created, transferred, received and stored via electronic means. Under the Law on E-Transactions (Art. 13), data messages have the same value as the original if the content in the data message:

- is retained/assured since the creation of the data message ; and,
- can be accessed and used as a complete form.

If a data message is required for evidence, its value will be determined by (Art. 14):

UKG HR COMPLIANCE ASSIST

- the reliability of the method used to generate, store or communicate the message;
- how the data message's integrity was ensured and maintained;
- how the identity of the data message's creator was identified; and,
- other relevant factors.
- the data message is retained in the same format in which it was generated, sent or received, or in a way that accurately demonstrates the message's content;
- the content is retained in a way that allows the origin/destination of the record to be identified along with the date and time it was sent/received.

Are there any legal requirements for electronic archiving systems (EAS)?

Vietnam does not have any legal requirements relating to the validity of electronic archiving systems. Under Vietnam's Law On E-Transactions (Art. 15), records can be archived as a data message as long as:

- the content is accessible when needed;



HR Best Practices:

The full electronic archiving era is approaching, but for

now it is not possible to guarantee that all paper documents can be destroyed. Indeed, the acceptance of digital copies can remain subject to the discretion of the judge.

Last updated November 2022.

DISCLAIMER: The information contained in this document is for general information purposes only and is not intended to be a source for legal, tax, or any other professional advice and should not be relied upon as such. This information is not intended to create, and the receipt of it by the reader does not constitute, an attorney-client relationship. All legal or tax questions or concerns should be directed to your legal counsel or tax consultant. Laws and regulations may change and UKG Inc. ("UKG") cannot guarantee that all the information in this document is accurate, current or complete. UKG MAKES NO REPRESENTATION OR WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE DOCUMENT OR THE INFORMATION OR CONTENT CONTAINED HEREIN AND SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, OR COMPLETENESS OF THIS INFORMATION. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER UKG, NOR ITS AGENTS, OFFICERS, EMPLOYEES, SUBSIDIARIES, OR AFFILIATES, ARE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR PROFITS, OR BUSINESS INTERRUPTION), EVEN IF THE UKG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT, ARISING IN ANY WAY OUT OF THE USE OF OR INABILITY TO USE THIS INFORMATION. This document and the content are proprietary and confidential information of UKG. No part of this document or its content may be reproduced in any form, or by any means, or distributed to any third party without the prior written consent of UKG © 2022 UKG Inc. All rights reserved.