



Email archiving in Spain

The key laws that affect your business

Email is a primary source of documentation for many organizations and it has taken on an increasingly critical role in corporate litigation and court cases.

The need to archive all email correspondence is growing in importance because companies are realizing that being in a position to retrieve an old email could save them thousands of dollars (euros) in legal fees and fines as well as their credibility.

Today, more than ever before, legal and compliance issues are driving the case for email archiving. Email archiving legislation is complex and varies greatly from country to country. Unless companies are well versed in compliance and email compliance law, the various regulations affecting email can be a minefield.

This document provides an overview of the archiving legislation in your country.

Laws regulating archiving and the penalties involved

In Spain, there are no specific regulations relating to the duty of archiving e-mails. Nonetheless, there exist several provisions in Spanish law regarding the archiving of invoicing or business documentation for example in commercial law, tax law, labour and employment law and personal data protection law that could apply to e-mails. Below a short summary of such regulations is included:

- As far as **commercial law** is concerned, the Spanish Commercial Code establishes a the duty for undertakers to keep all business documentation (i.e. accounting books, correspondence and other business-related documentation) during a six-year term since the last book accounting entry.
- Regarding **tax law**, any accounting document or invoice must be kept for a general term of four (4) years. Such a term is linked to the four (4) years term foreseen in connection with the prescription of tax infringements.
- No specific infringements are foreseen in case of non fulfilment of above mentioned duties. However, tax-related liabilities may arise in case such duties are not respected.
- **Labour and employment law** also has a large number of document-retention obligations with respect to employment-law-related documents for which a four (4) years period is foreseen. The lack of fulfilment of such conservation duties is considered as a non-severe infringement of labour and Social Security regulations, which may be sanctioned with fines from €60 up to €625.
- Finally, **Personal data protection law** also foresees that any document containing personal data should be conserved as long as the reason justifying the keeping and processing of such personal data is in force. At this respect, note that the management of personal data without the consent of the individuals is considered as a high severe infringement of the Spanish Personal Data Act, which is sanctioned with fines up to €601.012, 10.



GFI MailArchiver



GFI MailArchiver is used by thousands of administrators to comply with the various pieces of legislation that cover email archiving. GFI MailArchiver provides a secure central storage for all company email while allowing fast and easy access to old and deleted email if required.

Using the auditing functionality, management can access any email that is requested for eDiscovery/email compliance purposes and provide a guarantee that these emails have not been tampered with – a major requirement in corporate litigation cases.

With GFI MailArchiver, companies can also rest assured that they can:

- Reduce reliance on cumbersome PST files and manage and reduce mailbox quotas on Microsoft Exchange server
- Access and manage all archived email from anywhere in the world using their web browser
- Retrieve old and deleted emails on demand – with full thread and conversation
- Use advanced email search and 'Saved Search' capabilities

More information about GFI MailArchiver can be found at <http://www.gfi.com/mailarchiver/>.

