

ElsterFormular

Endbenutzer-Lizenzvertrag und Datenschutzhinweis

Inhaltsverzeichnis

Endbenutzer-Lizenzvertrag und Datenschutzhinweis.....	2
§ 1 Vertragsparteien.....	2
§ 2 Vertragsgegenstand und Unentgeltlichkeit.....	2
§ 3 Rechtsgrundlagen und Verwendungszweck.....	2
§ 4 Einräumung von Nutzungsrechten.....	2
§ 5 Pflichten und Obliegenheiten des Steuerbürgers.....	3
§ 6 Haftung.....	3
§ 7 Hinweis auf gewerbliche und urheberrechtliche Schutzrechte.....	3
§ 8 Eventuelle Rechtsverletzungen.....	3
§ 9 Ein- und Ausfuhrkontrolle.....	4
§ 10 Datenschutzhinweis.....	4
§ 11 Wirksamkeitsklausel.....	4
§ 12 Deutsches Recht.....	4
Anhang – Open Source-Komponenten.....	4
Deutschsprachige Übersetzung zu den Lizenzen Dritter.....	4
1. zlib.....	4
2. OpenSSL.....	5
3. xerces.....	5
4. cURL.....	7
5. ICU.....	7
6. Haru Free PDF Library.....	7
7. Qt Cryptographic Architecture (QCA) version 2.0.3.....	8
8. Log4cpp.....	8
9. GMP.....	13

Endbenutzer-Lizenzvertrag und Datenschutzhinweis

zwischen

dem Bayerischen Landesamt für Steuern als dem bundesweiten Koordinator des Elster Projektes,
(nachfolgend "Steuerverwaltung" oder "LfSt")

und dem

Steuerbürger

§ 1 Vertragsparteien

(1) Das LfSt handelt hier für den Freistaat Bayern in seiner Eigenschaft als bundesweiter Koordinator des Projektes ELSTER der Finanzverwaltungen von Bund und Ländern.

(2) "Steuerbürger" im Sinne dieses Vertrages sind natürliche und juristische Personen, z. B. auch Arbeitgeber im Rahmen der Lohnsteuer-Anmeldungen; weiterhin deren autorisierte Dienstleister, die Steuererklärungen für die Vorgenannten einreichen.

§ 2 Vertragsgegenstand und Unentgeltlichkeit

(1) Gegenstand des Vertrages ist die Überlassung und Einräumung von Nutzungsrechten an dem Steuererklärungsprogramm ElsterFormular oder Integritätsprüfer (Steuersoftware).

(2) Die Steuersoftware wird in maschinenlesbarer Form unentgeltlich überlassen. Sofern Open Source-Bestandteile integriert wurden, ist der Sourcecode für diese Bestandteile ebenfalls unentgeltlich erhältlich. Eine Auflistung der verwendeten Open Source-Bestandteile von ElsterFormular findet sich im Anhang.

§ 3 Rechtsgrundlagen und Verwendungszweck

(1) Rechtsgrundlage der elektronischen Übermittlung von Steuererklärungen und sonstiger für das Besteuerungsverfahren erforderlicher Daten ist insbesondere die "Verordnung zur elektronischen Übermittlung von Steuererklärungen und sonstigen für das Besteuerungsverfahren erforderlichen Daten" (StDÜV) sowie die dort genannten gesetzlichen Grundlagen.

(2) Die Steuersoftware und alle Ihre Bestandteile dienen ausschließlich dazu, im Zusammenhang mit der elektronischen Abgabe von Steuererklärungen und Übermittlung von Steuerdaten gemäß den gesetzlichen Vorgaben verwendet zu werden. Eine Beschreibung der Funktionalitäten der Steuersoftware ergibt sich aus den unter www.elsterformular.de bereitgestellten Dokumenten, welche dort heruntergeladen werden können.

§ 4 Einräumung von Nutzungsrechten

(1) Im Rahmen des gesetzlich sowie oben in § 3 beschriebenen Verwendungszwecks räumt die Steuerverwaltung dem Steuerbürger ein zeitlich und räumlich nicht begrenztes, nicht ausschließliches Recht ein, die Steuersoftware unentgeltlich zu nutzen.

(2) Die Übertragung des in § 4 (1) eingeräumten Nutzungsrechts an Dritte und die Unterlizenzierung sind nicht gestattet.

(3) Die im Anhang aufgeführten Softwarekomponenten sind Open Source Software. Die Nutzungsbefugnisse für diese Open Source-Komponenten richten sich alleine nach den Bedingungen der jeweiligen Open Source-Lizenzen, die Lizenzierung erfolgt durch die jeweiligen Rechtsinhaber direkt. Die Texte der betroffenen Open Source-Lizenzen sind ebenfalls im Anhang abgedruckt.

§ 5 Pflichten und Obliegenheiten des Steuerbürgers

(1) Der Steuerbürger verpflichtet sich, die Steuersoftware entsprechend den unter www.elsterformular.de bereitgestellten Dokumenten zu verwenden.

(2) Es liegt im besten Interesse des Steuerbürgers und der Steuerverwaltung, dass stets nur die neueste Version der Steuersoftware verwendet wird. Updates oder neue Versionen können unter www.elsterformular.de heruntergeladen werden.

(3) Eventuelle Mängel der Steuersoftware werden grundsätzlich dadurch behoben, dass die Steuerverwaltung jeweils eine neue Kopie der Steuersoftware zum Herunterladen zur Verfügung stellt (§ 5 (2)). Eine Pflicht zur Bereitstellung von neuen Programmversionen bzw. Updates ergibt sich daraus nicht.

(3) Die Steuerverwaltung bietet für Teile der Steuersoftware zusätzliche Supportleistungen in Form von Dokumentationen und Hilfen online (www.elster.de), sowie über die ELSTER-Hotline. Hieraus erwachsen jedoch kein zusätzlicher Anspruch auf Mängelbeseitigung und kein Anspruch auf die Beibehaltung der Hotline.

(4) Der Steuerbürger hat bei der Nutzung der Steuersoftware in angemessenem Umfang die Sicherung von Daten vorzunehmen.

§ 6 Haftung

Die Haftung ist ausgeschlossen.

Dies gilt nicht für

- die Haftung für die Verletzung von Amtspflichten (§ 839 BGB, Artikel 34 GG).
- die Verletzung von Leben, Körper oder Gesundheit, die auf einer fahrlässigen Pflichtverletzung oder auf einer vorsätzlichen oder fahrlässigen Pflichtverletzung eines gesetzlichen Vertreters oder Erfüllungsgehilfen beruht.
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§ 7 Hinweis auf gewerbliche und urheberrechtliche Schutzrechte

(1) Die Zeichen ELSTER und die entsprechende Grafik sind für den Freistaat Bayern als Marken geschützt.

(2) Die Steuersoftware ist für die Steuerverwaltung umfassend urheberrechtlich geschützt. Jede in dieser Vereinbarung nicht ausdrücklich genehmigte Verwendung bedarf der ausdrücklichen und schriftlichen Zustimmung.

(3) Einzelne Komponenten von ElsterFormular basieren auf Software, an denen die Steuerverwaltung selbst Rechte im Wege der Lizenz erworben hat. Insoweit wird auf den Anhang verwiesen.

§ 8 Eventuelle Rechtsverletzungen

(1) Macht ein Dritter gegenüber dem Steuerbürger Ansprüche wegen der Verletzung von Schutzrechten durch die Steuersoftware gegenüber dem Steuerbürger geltend und wird die Nutzung der Steuersoftware hierdurch beeinträchtigt oder untersagt, haftet das LfSt wie folgt:

Das LfSt wird nach seiner Wahl und auf seine Kosten entweder die Steuersoftware so ändern oder ersetzen, dass das Schutzrecht nicht weiter verletzt wird, oder den Steuerbürger von Lizenzgebühren gegenüber dem Schutzrechtsinhaber oder Dritten freistellen.

Gelingt dies dem LfSt zu angemessenen Bedingungen nicht, wird das LfSt dies dem Steuerbürger mitteilen und ihm die Nutzung ab einem bestimmten Zeitpunkt untersagen. Der Steuerbürger ist nach Wahl des LfSt verpflichtet, die Steuersoftware einschließlich der Dokumentation und aller Kopien entweder zu löschen oder an den LfSt zurückzugeben.

(2) Voraussetzungen für die Haftung des LfSt nach § 8 (1) sind, dass der Steuerbürger das LfSt von Ansprüchen Dritter unverzüglich verständigt, die behauptete Schutzrechtsverletzung nicht anerkennt und jegliche Auseinandersetzung, einschließlich etwaiger außergerichtlicher Regelungen, entweder dem LfSt

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Stellt der Steuerbürger die Nutzung der Steuersoftware aus Schadensminderungs- oder sonstigen wichtigen Gründen ein, ist er verpflichtet, den Dritten darauf hinzuweisen, dass mit der Nutzungseinstellung ein Anerkenntnis der behaupteten Schutzrechtsverletzung nicht verbunden ist.

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§ 9 Ein- und Ausfuhrkontrolle

Es liegt in der Verantwortung des Steuerbürgers, alle anwendbaren Ein- und Ausfuhrbestimmungen einzuhalten. Der Steuerbürger wird darauf hingewiesen, dass das ElsterFormular auch kryptographische Techniken verwendet (OpenSSL).

§ 10 Datenschutzhinweis

Mit dieser Software werden personenbezogene Daten im Sinne des § 3 (1) des Bundesdatenschutzgesetzes (BDSG) zum Zwecke der Verarbeitung erhoben. Neben den reinen Daten, die zur Steuerveranlagung benötigt werden, erhebt die Software Daten über die Art und Version des Betriebssystems des Nutzers und übermittelt diese an die Finanzverwaltung. Diese Daten werden benötigt, um die ordnungsgemäße Verarbeitung der Daten sicherzustellen und Fehlern im Verarbeitungsprozess vorzubeugen. Die Nutzung der Daten erfolgt im Rahmen des § 14 BDSG durch die Finanzverwaltung und nur für den genannten Zweck.

§ 11 Wirksamkeitsklausel

Die Unwirksamkeit einer Bestimmung dieses Vertrages berührt den übrigen Vertragsinhalt nicht.

§ 12 Deutsches Recht

Auf diesen Vertrag ist ausschließlich deutsches Recht mit Ausnahme des EGBGB anwendbar.

Anhang – Open Source-Komponenten

Nachfolgend finden Sie die Lizenzbedingungen der eingearbeiteten Open-Source-Komponenten. Die Steuerverwaltung ist verpflichtet, diese Lizenzbedingungen unverändert zu veröffentlichen. Ihnen als Endbenutzer entstehen daraus weder Rechte noch Pflichten in Bezug auf die Finanzverwaltung. Der Rechtsweg ist ausgeschlossen.

Deutschsprachige Übersetzung zu den Lizenzen Dritter

Die Übersetzung dient lediglich dem besseren Verständnis, rechtlich bindend bleiben die Lizenzvereinbarungen in der Originalsprache.

[Deutschsprachige Übersetzung zu den Lizenzen Dritter](#)

1. zlib

zlib.h -- interface of the 'zlib' general purpose compression library version 1.2.3, July 18th, 2005
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gültig ab Version 16.0

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This product includes cryptographic software written by Eric Young (eay@cryptsoft.com).

This product includes software written by Tim Hudson (tjh@cryptsoft.com).

3. xerces

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Version 2.0, January 2004

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7. Qt Cryptographic Architecture (QCA) version 2.0.3

Date: November 27th, 2010

Website: <http://delta.affinix.com/qca/>

Mailing List: Delta Project <delta@lists.affinix.com>

Project Lead/Maintainer (2003-current): Justin Karneges <justin@affinix.com> (March 2007 - August 2007 under Barracuda Networks employment)

Development, Documentation, Unittests (2004-current): Brad Hards <bradh@frogmouth.net>

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Alon Bar-Lev, for smart card and design assistance
Jack Lloyd, for Botan and X.509 mentoring
L. Peter Deutsch, for the public domain MD5 implementation
Steve Reid, for the public domain SHA1 implementation
Jason Kim, for the CMS Signer graphics

License

This library is licensed under the Lesser GNU General Public License Version 2.1. (Anmerkung: siehe Log4cpp)

Das verwendete QCA ist unter <https://download.elster.de/download/tools/opensource/qca.zip> zu finden. Es ist über die ELSTER-Hotline (hotline@elster.de) auch auf einer CD-ROM erhältlich.

8. Log4cpp

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This option is useful when you wish to copy part of the code of the Library into a program that is not a library.

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