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## UKRAINE: ELECTRONIC FILING OF TAX RETURNS Oleksandr Pastukhov\*

For years that lapsed since the adoption of the Law on Electronic Signature and the Law on Electronic Document Turnover in 2003, Ukraine's taxpayers have been waiting for the possibility to file their tax returns electronically. The two statutes established an equivalency between, respectively, handwritten signatures and electronic signatures and paper and electronic documents and provided for an EU-style public key infrastructure (PKI). Creating a national PKI had long remained unfinished, however, for the certification service providers and the government agency supervising their activities had yet to be identified. As a result, many documents filed with the authorities such as tax returns could be delivered in electronic format, but not electronically, i.e. not over an electronic communication network such as the Internet. The situation was finally remedied in June 2009, when, after the country's PKI took shape, the State Tax Administration (STA) started accepting tax returns over the Internet at its e-mail address [zvit@sta.gov.ua](mailto:zvit@sta.gov.ua).

Which taxes are influenced by these developments? Potentially, all of them, but most significantly, of course, the VAT, since it is the tax that is being reported on a monthly basis. Electronic returns makes tracing VAT compliance at a pace unheard of before. This is why the STA stresses on its success in introducing electronic filing namely in the VAT context: on February 8, 2010, the STA reported of 93,11% of VAT payers who submitted their tax returns in electronic form.<sup>20</sup>

Of all the 18 electronic key certification centres accredited by the national regulator – the Central Certification Authority of the State Committee for Informatisation of Ukraine<sup>21</sup> – only six have concluded agreements with the STA on filing tax returns using their key certification services<sup>22</sup> and only one of them – the Key Certification Centre of the State Employment Service<sup>23</sup> – is authorized to certify keys used in the online filings.

Starting July 1, 2009, taxpayers can also file their returns through an intermediary offering a number of added-value services. To date, there are two such intermediaries known as 'operators of electronic reporting' that have concluded agreements on cooperation with the STA: Effective Information Systems Ltd.<sup>24</sup> and Operator of Electronic Registration and Reporting Ltd.<sup>25</sup>

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<sup>20</sup> See [http://www.sta.gov.ua/control/uk/publish/article?art\\_id=242319&cat\\_id=45661](http://www.sta.gov.ua/control/uk/publish/article?art_id=242319&cat_id=45661).

<sup>21</sup> See <http://www.czo.gov.ua/index.php?page=reestr>.

<sup>22</sup> See [http://www.sta.gov.ua/control/uk/publish/article?art\\_id=115103&cat\\_id=115063](http://www.sta.gov.ua/control/uk/publish/article?art_id=115103&cat_id=115063).

<sup>23</sup> See <http://www.ca.dcz.gov.ua>.

<sup>24</sup> See <http://www.eis.net.ua>, <http://www.e-zvit.com.ua>

<sup>25</sup> See <http://www.zvitoperator.com.ua>.

The STA has repeatedly endorsed filing tax returns via the intermediaries stressing on the following advantages of tax reporting this way:

- submitting reports to eight government agencies through a ‘single counter’;
- 24/7 service;
- guaranteed express communication of tax reports and timely delivery of receipts;
- guarantee against unauthorised access to the reports;
- archiving the receipts;
- a free set of keys used in electronic signatures.<sup>26</sup>

Although the STA has stressed on the voluntariness of the electronic filing on the same occasions, the idea of introducing a 100% electronic tax return filing was slowly but surely capturing Ukrainian government’s imagination. The Order of the Cabinet of Ministers No. 1087-p of September 9, 2009, envisaged the creation of “electronic forms of reporting documents” on the websites of ministries and other central executive bodies.<sup>27</sup> On October 14, 2009, the Cabinet approved the National Action Plan on Improving Tax Administration that instructed the STA to draft amendments to its own by-laws by which the electronic filing would be made mandatory for big and medium-sized business.<sup>28</sup>

On October 28, 2009, the STA went as far as requiring tax reporting “exclusively through the operators of electronic reporting” starting November 1, 2009.<sup>29</sup> As a result of the public outcry that followed, the STA cancelled its decision on November 2, 2009.<sup>30</sup> The Order No. 1087-p was amended by the Cabinet on January 27, 2010, “to guarantee the acceptance of reporting documents according to the law in paper or electronic form”.<sup>31</sup>

This recent rollback is only logical, for the Law on the Order of Clearing off the Liabilities of Taxpayers before Budgets and State Special-Purpose Funds<sup>32</sup> provides for voluntary tax return filing in electronic form. Nevertheless, the next Cabinet might well try and change the law, because the electronic format of a tax return makes taxes easier, faster and cheaper to assess and is ideally suited for verification and cross-reference. The new parliament coalition, whatever it might be, is likely to support the changes in the law that facilitate both tax enforcement and tax compliance.

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<sup>26</sup> See, e.g.,

[http://www.sta.gov.ua/control/uk/publish/article?att\\_id=226931&cat\\_id=131123&showfhidden=1](http://www.sta.gov.ua/control/uk/publish/article?att_id=226931&cat_id=131123&showfhidden=1)

<sup>27</sup> See § 1, at <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1087-2009-%F0&key=4/UMfPEGznhhP11.Zi.K9uJTH145Es80msh81e6>.

<sup>28</sup> See § 9, at [http://search.ligazakon.ua/l\\_doc2.nsf/link1/KR091217.html](http://search.ligazakon.ua/l_doc2.nsf/link1/KR091217.html).

<sup>29</sup> See [http://search.ligazakon.ua/l\\_doc2.nsf/link1/gdpi9834.html](http://search.ligazakon.ua/l_doc2.nsf/link1/gdpi9834.html).

<sup>30</sup> See Order of the Cabinet of Ministers of Ukraine of January 27, 2010, No. 163-2010-p, at <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=163-2010-%F0>.

<sup>31</sup> See <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=163-2010-%F0>.

<sup>32</sup> See Art. 4, item 4.4.2., § 3, ¶ 3, at [http://search.ligazakon.ua/l\\_doc2.nsf/link1/t002181.html](http://search.ligazakon.ua/l_doc2.nsf/link1/t002181.html).