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UKRAINE: ELECTRONIC FILING OF TAX RETURNS

By **Oleksandr Pastukhovli**

For years between the adoption of the laws ‘On the electronic digital signature’ No. 852-IV of 22 May 2003 and ‘On Electronic Documents and Electronic Document Circulation’ No. 851-IV of 22 May 2003,¹ 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 digital signatures and paper and electronic documents, and provided for a public key infrastructure (PKI) form of electronic digital signature.

The creation of a national PKI had long remained unfinished, however, because 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 on a physical medium such as a CD or floppy disk, but not electronically, that is 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 zvrit@sta.gov.ua.

The most significant tax that influenced this development was VAT, since it is a tax that is reported on a monthly basis. Electronic returns enable the tracing of VAT compliance at a pace unheard of before. This is why the STA places a stress on its success in introducing electronic filing in the context of VAT: on 8 February 2010, the STA reported that 93.11 per cent of VAT payers submitted their tax returns in electronic form.²

There are 18 electronic key certification centers

accredited by the national regulator, the Central Certification Authority of the State Committee for Informatization of Ukraine.³ At the time of writing, only six have concluded agreements with the STA on filing tax returns using their key certification services,⁴ and only one of them, the Key Certification Centre of the State Employment Service,⁵ is authorized to certify keys used with the on-line filing of tax returns.

With effect from 1 July 2009, taxpayers can also file their returns through an intermediary offering a number of additional services. At the date of writing, there are two such intermediaries known as ‘operators of electronic reporting’ that have concluded agreements on cooperation with the STA: Effective Information Systems Ltd⁶ and Operator of Electronic Registration and Reporting Ltd.⁷ The STA has repeatedly endorsed the filing of tax returns via such intermediaries, stressing the following advantages of tax reporting this way:

- a) submitting reports to eight government agencies through a ‘single counter’;
- b) a service that is available every day all the year;
- c) guaranteed express communication of tax reports and timely delivery of receipts;
- d) a guarantee against unauthorized access to the reports;
- e) archiving receipts;
- f) a free set of private keys for use as an electronic digital signature.⁸

Although the STA has always stressed the voluntariness

¹ Adopted by the Verkhovna Rada of Ukraine on 23 May 2003 first published in *Uryadovyi Kurier (Governmental Courier) Newspaper No. 119 on 2 July 2003 and in force from 1 January 2004. Both laws are complimentary to each other and form the legal framework for transactions involving electronic signatures.*

² http://www.sta.gov.ua/control/uk/publish/article?art_id=242319&cat_id=45661.

³ A list of the certification centers is located here: <http://www.czo.gov.ua/index.php?page=reestr>.

⁴ http://www.sta.gov.ua/control/uk/publish/article?art_id=115103&cat_id=115063.

⁵ <http://www.ca.dcz.gov.ua/>.

⁶ <http://www.eis.net.ua> and <http://www.e-zvit.com.ua>.

⁷ <http://www.zvitoperator.com.ua>.

⁸ For example, see http://www.sta.gov.ua/control/uk/publish/article?art_id=226931&cat_id=131123&showHidden=1.

of electronic filing, the Ukrainian government has taken the view that it would be worth working towards electronic filing for everybody. To this end, the Order of the Cabinet of Ministers No. 1087-p of 9 September 2009 envisaged the creation and “constant updating” of “electronic forms of reporting documents” on the web sites of ministries and other central executive bodies.⁹ On 14 October 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 electronic filing would be made mandatory for large and medium-sized businesses.¹⁰ On 28 October 2009, the STA went as far as requiring tax reporting “exclusively through the operators of electronic reporting”, starting on 1 November 2009.¹¹ As a result of the public outcry that followed, the STA cancelled its decision on 2 November 2009.¹² Order No. 1087-p was amended by the Cabinet on 27 January 2010, “to guarantee the acceptance of reporting documents according to the law in paper or electronic form”.¹³

This recent retreat is only logical, for the ‘Law on the Order of Clearing off the Liabilities of Taxpayers before

Budgets and State Special-Purpose Funds¹⁴ provides for the voluntary filing of tax return in electronic form. Nevertheless, the next Cabinet might well try and change the law, because the electronic format of a tax return makes the recording and collection of taxes easier, faster and cheaper to assess, and is ideally suited for verification and cross-reference. The new parliament coalition is likely to support the changes in the law that facilitates both tax enforcement and tax compliance.

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<http://www.rpmllex.com>

⁹ See §1 at <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1087-2009-%20Fo&key=4/UJMFEGznhhPII.Zi.K9uJTHL45Es8oms8le6>.

¹⁰ ‘§9. To prepare proposals to amend its own regulations on deciphering other incomings and expenses and the mandatory character of submission of electronic reporting for taxpayers belonging to large and medium businesses’ – in

Ukrainian at http://search.ligazakon.ua/_doc2.nsf/link1/KR091217.html.

¹¹ Letter dated 28.10.2009 from the Deputy Chairman of the State Tax Administration of Ukraine (N 23680/7/28-0517), available at http://search.ligazakon.ua/_doc2.nsf/link1/gdpi9834.html.

¹² See the Order of the Cabinet of Ministers of

Ukraine of 27 January 2010, No. 163-2010-p, at <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=163-2010-%20Fo>.

¹³ See <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=163-2010-%20Fo>.

¹⁴ See Article 4, item 4.4.2., §3, ¶13, at http://search.ligazakon.ua/_doc2.nsf/link1/t002181.html.