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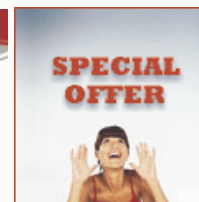
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NEWS

TALKING TAX: New e-tax-returns: has the bureaucracy vanished?

 May 17, 2006
 By Janis Taukacs

Prior to March 24, 2006 all Latvian businesses were able to submit tax returns in electronic form to authorities, but they still had to submit hard copies as well. So in the best case scenario businesses would only save some time with minimal benefit. However, tax authorities on March 13, 2006 adopted an internal document (Instruction No. 1) introducing a system of electronic declaration (regarding all tax returns) without a need for the back-up hard copies.

Unfortunately, some unnecessary burdens still remain in order to submit tax returns in electronic form. Instead of a simple procedure of introducing an e-signature, authorities have requested businesses to conclude a special form agreement, as approved by the said SRS instruction, where businesses cannot negotiate or change a word.

There is no doubt that the practice to commence the declaration only electronically is very important. For example, in Estonia, the taxpayers normally cannot imagine their lives with paper-based declarations. However, in this case the "draft" agreement offered by the SRS is too extensive, because a part of the included terms (rights of the parties and others) should have been stipulated by legislation. In the worst case scenario the agreement should be no longer than one page, which discloses the identification data and the binding character of the e-returns.

The agreement provides for a number of terms unfavorable to businesses. For example, the draft agreement stipulates the SRS' right to terminate the agreement without any specific reason. The SRS also emphasizes that it is not liable for interruptions in the operations of the system for any technical reason. As a result, it is not clear whether the taxpayer can be hit by sanctions due to such "technical reasons" and in what way the client (i.e., taxpayer) will be able to check the existence and cause of such technical problems. Sadly, the Latvian legislation is qualified in the agreement as force majeure.

The instructions on introducing e-returns is an internal normative act and is binding only to the institution (SRS) itself or officials in relation to whom it has been issued. It would be more correct to adopt that procedure as a law, at least because the taxpayer has no rights to require that the SRS observes fulfilment of SRS' duties indicated in the instruction.

The agreement should be ranked as "agreement of private rights" in the understanding of the state administration system, on the basis of which the SRS "provides services." Therefore, it should be noted that in legal terms, for example, the agreement should be drawn without any discrimination – thus nobody can "win" more favourable conditions and the contractors should be equal, the liabilities of the contractors should be proportionate.

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