

# Electronic filing of accounts (e-accounts) - introduction postponed for a year

The German regulation postponing the effective date for the electronic filing of accounts (AnwZpvV) came into force on December 23, 2010. As a result of this postponement, the requirement for electronic transmission of balance sheet and income statement data to the tax authorities will now only apply to data for financial years that begin after December 31, 2011. This amounts to a departure from the original stipulations in section 52 (15a) German Income Tax Act (EStG), under which the electronic filing obligation had been planned to come into effect twelve months earlier.

Given the postponement of the effective date for first-time application, this seems a good opportunity to remind you of the fundamentals of this new procedure approved by German legislators, in which balance sheet and income statement data will have to be prepared and submitted to the tax authorities in electronic form.

## I. Legal basis and objectives

Back at the turn of the millennium, the German tax authorities initiated a number of projects aimed at switching to the electronic transmission of suitably prepared tax-related data. Electronic services have now been introduced in a number of areas to date, including the following:

- electronic submission of tax returns via the ELSTER electronic tax return form;
- electronic submission of value added tax returns and payroll tax returns;
- transmission of digital certificates in connection with payroll tax;
- access to an electronic tax account, allowing users to obtain information on prepayments, retrospective payments or refunds, either already made or outstanding, in respect of different types of tax;
- electronic data transmission in connection with the tax authorities' right to electronically access data in IT-based accounting systems.

The legal basis for the forthcoming requirement for the electronic submission of accounts data was created by the German Tax Bureaucracy Reduction Act (SteuBAG) of December 20, 2008.

One of the declared objectives of SteuBAG is to introduce electronic processes as far as possible to replace the paper-based systems that have hitherto characterized tax procedures, thereby ultimately automating the taxation system. This shift is intended both to reduce the burden on tax authorities and to allow commercial entities to cut costs.

## Contents

- I. Legal basis and objectives
- II. Extension of the obligation to submit tax data in electronic form
- III. Who is affected by the e-accounts requirement?
- IV. Data submission format
- V. Scope of documents to be provided in electronic form
- VI. Significant areas of concern regarding the current plan
- VII. Outlook

The purpose of this newsletter is to provide readers with general information; it is not intended to replace advice based on individual circumstances. If you have any questions or would like further advice, please do not hesitate to call or mail your usual contact at PVW or:



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## II. Extension of the obligation to submit tax data in electronic form

The obligation on businesses to submit data in electronic form, which to date has mainly involved the submission of value added tax returns and payroll tax returns, has been extended by SteuBAG in key areas.

In the future, there will be a general obligation to submit the following electronically:

- all business tax declarations (in particular, corporation tax returns, trade tax returns, and trade tax breakdowns);
- all other returns to be filed by businesses (for example, value added tax returns, payroll tax returns);
- income tax declarations if income is generated from profits (as defined by EStG);
- balance sheets and income statements.

Section 5b EStG, a new section of this act added as a result of SteuBAG, requires the standardized, electronic transmission of balance sheet and income statement data (referred to as **e-accounts**). Originally, this requirement was to be applied to financial years beginning after December 31, 2010 (see section 52 (15a) EStG). However, the effective date for first-time application was then put back a year to December 31, 2011 as a result of AnwZpV (see above).

A particular problem arises if there is a difference between the carrying amounts reported in the balance sheet and income statement prepared in accordance with the German Commercial Code (HGB) and the carrying amounts determined in accordance with tax regulations. This problem is now also more likely to occur as a result of the substantial decoupling of tax accounts from HGB financial statements caused by the German Accounting Law Modernization Act (BilMoG), the provisions of which had to be applied from 2010 onward. Although the principle of 'HGB financial accounting leads tax' has been retained, it is undermined somewhat by tax regulations relating to recognition and measurement. The removal of the opposing principle ('tax dictates financial accounting'), which has come about as a result of the deletion of section 5 (1) sentence 2 EStG (prior to amendment), now permits businesses to exercise tax options independently of the accounting treatment in HGB financial statements.

In such cases, taxable persons or entities have two basic options for e-accounts purposes (section 60 German Income Tax Implementation Regulation (EStDV)):

- add a tax reconciliation to the HGB balance sheet and income statement, or
- prepare separate tax accounts.

A reconciliation will very quickly become confused and subject to increased risk of error, particularly if there are a significant number of differences between the two accounting treatments, differences that may also impact over several years in some cases.

Given this scenario, the initial trend in practice appears to be that businesses are opting to prepare separate tax accounts. Depending on the structure of the taxable entity's existing accounting systems, the tax accounts may be prepared from a separate tax bookkeeping system or from specific tax entries in the existing system.

Businesses may only be exempted from the requirement to submit electronic accounts in cases of particular hardship. This criterion is only expected to apply to small entities however.

## III. Who is affected by the e-accounts requirement?

Under section 5b EStG, which came into force on January 1, 2009, the following entities (among others) are subject to the obligation to submit the contents of their balance sheet, income statement and any necessary reconciliation in electronic form:

- persons or entities determining profit as defined by section 4 (1) EStG (agricultural and forestry operators subject to accounting requirements under section 141 German Tax Code (AO) or who voluntarily prepare financial statements, or self-employed persons who voluntarily maintain books and records);
- persons or entities determining profit as defined by section 5 EStG (traders subject to accounting requirements under section 140 or section 141 AO, or who voluntarily maintain books and records).

Taxable persons or entities that determine profit by using the cash method of accounting in accordance with section 4 (3) EStG must also submit the EÜR annex (the annex for a cash-based income and expenditure statement) in electronic form (including a statement of assets/statement of current assets, together with a calculation of non-deductible debt interest) (see section 60 (4) EStDV).

## IV. Data submission format

In a letter from the German finance ministry dated August 31, 2010, the tax authorities specified the format and breakdown for electronic submissions so that different entities do not use different formats and/or different breakdowns of the balance sheet and income statement. The letter also specified the documents ultimately to be submitted as standard (see below) by the person or entity preparing the accounts.

The required documents must be prepared in accordance with a mandatory classification scheme, referred to as a taxonomy (similar to a chart of accounts). The data must be transmitted in XBRL format (XBRL = eXtensible Business Reporting Language), a data format specially developed for handling financial information. XBRL is an open data transmission format that can be used by anyone and the necessary programs or modules can be downloaded over the internet free of charge.

XBRL is a widely accepted international standard for the electronic exchange of business data; it facilitates the multiple use of data prepared in a standardized format (for example, publication of data in the electronic German Federal Gazette, submission of data to lenders, regulators, or tax authorities, etc.).

The structure of an XBRL information package is precisely defined in the form of a taxonomy. The taxonomy defines both the different types of elements (for example, the name of a business or the individual items on the face of the balance sheet and income statement) and the relationship between the elements. In essence, a taxonomy may be seen as a kind of extended chart of accounts that the tax authorities have defined as a minimum standard.

The tax taxonomy developed in this case has been based on the latest version (version 4.0) of the **HGB taxonomy** developed in accordance with German law by XBRL Deutschland e.V. (the organization with XBRL jurisdiction in Germany, promoting national and international acceptance of XBRL). Other than the HGB taxonomy, there are also taxonomies for the US GAAP and IAS/IFRS accounting standards as well as numerous taxonomies at an international level that can be used for local accounting standards or reporting practices.

The HGB taxonomy can be used for both single-entity financial statements and consolidated financial statements. A joint working group comprising members from the German tax authorities and XBRL Deutschland e.V. adapted this taxonomy to accommodate tax requirements so that it could then be used for the purposes of e-accounts.

The outcome is the **tax taxonomy**, the scope of which is considerably greater than that of the HGB taxonomy (see below).

## V. Scope of documents to be provided in electronic form

The tax taxonomy comprises a master data module (global common document (GCD) module) and an annual financial statements module (generally accepted accounting principles (GAAP) module). The master data module allows the tax authorities to request transmission of document data and information on the entity's report and its business.

Transmission of the following elements of the annual financial statements module is mandatory:

- Balance sheet
- Income statement
- Appropriation of profit
- Changes in capital accounts (applies only to partnerships/joint enterprises)
- Determination of taxable profit (sole traders/partnerships)
- Determination of taxable profit for partnerships (additional fields)
- Tax adjustments (in particular, reclassifications/reconciliation).

Any other elements of the annual financial statements module that are also available (for example, contingencies and commitments, statement of changes in equity, cash flow statement, notes to the financial statements including statement of changes in fixed assets, and management report) may also be submitted on a voluntary basis.

Substantial additions have been made to the tax taxonomy compared with the HGB taxonomy on which it is based, particularly as regards the balance sheet and income statement reporting elements. Compared with the situation to date, the tax authorities are therefore demanding significantly more information coupled with a greater degree of detail. The number of mandatory fields (i.e. fields that must be completed and submitted) for balance sheet data for large and medium-sized limited companies is some three times greater than the equivalent number in the HGB taxonomy; as far as small limited companies are concerned, the number of mandatory fields has been increased eightfold. The corresponding increases in the number of mandatory fields for the income statement are as much as sevenfold and ninefold respectively.

## VI. Significant areas of concern regarding the current plan

The text of the German finance ministry letter dated August 31, 2010 included initial publication of the draft taxonomy for the e-accounts. This specified details relating to the structure, level of detail, and minimum scope of the data that businesses would have to submit to the tax authorities.

The ministry then held a consultation meeting with trade associations on October 11, 2010 and the associations were able to submit comments on the draft prior to the meeting.

A range of concerns emerged from the comments submitted by the associations. A brief summary of the main concerns is as follows:

- the date of initial application should be postponed because businesses would be unable to implement the necessary adjustments within the time available in the original plan;
- the tax taxonomy in its current form lacked a legal basis;
- the minimum scope of data to be transmitted (individual elements of financial statements and depth of breakdown) was too extensive;
- the number of available catchment items (in order to take into account business-specific financial statement details) was inadequate;
- the options for adjusting the taxonomy to take into account business-specific features were inadequate;
- sector-related taxonomies were not yet available;
- the modules specific to legal structure still required some adjustment.

The concerns regarding the minimum scope of the data to be submitted are of particular significance for every individual person or entity affected. If there is no change to the current plan for the tax taxonomy, it will allow the tax authorities to assemble a huge body of data, which they will then be able to analyze electronically. This will then enable the tax authorities – or at least make it easier for them – to draw a comprehensive range of conclusions about the (tax) accounting policy decisions made by the individual taxpayers or taxable entities concerned. This will also impact future tax audits because it will offer the tax authorities the option of more meaningful validation or plausibility tests (item analyses, sequential comparisons, business comparisons, etc.).

Furthermore, the proposed provision of such a comprehensive range of sensitive data brings with it the risk that third parties could – for a wide variety of motives – attempt to access the data for their own purposes. There is absolutely no doubt that all the data protection problems in this regard have not yet been resolved.

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## VII. Outlook

Given the consistent level of criticism regarding the planned date for the initial application of e-accounts expressed in the comments from a large number of trade associations, in opinions published in the press and also aired in the public consultation held on October 11, 2010, the effective date has now been postponed for a year (see above).

In addition, a decision was also taken in December 2010 to run a pilot project in the first half of 2011 with the aim of testing and streamlining the procedure for the electronic transmission of balance sheet and income statement data. A request has been made for volunteer businesses to take part in this pilot project.

However, even before the outcome of this pilot project is known, all businesses should start to make the necessary preparations now so that they will be able to switch to the submission of e-accounts as smoothly as possible.

First and foremost, this includes a review of existing software infrastructure in the business to assess compatibility with XBRL.

Businesses must also analyze their accounting systems to establish the extent to which they can already provide the minimum scope of data required by the tax authorities. This involves a review of the chart of accounts in each business and a comparison with the requirements of the tax taxonomy.

Businesses must pay particular attention to the issue of differences between carrying amounts in HGB financial statements and those for tax purposes and how such differences are going to be handled in e-accounts (see II above for the options available). Generally speaking, it appears to be the case that the preparation of separate tax accounts means the individual or entity concerned ultimately has to provide the tax authorities with significantly less information than would otherwise be the case with a reconciliation statement. The reasons for the differences between HGB financial statements and tax accounts can then no longer be directly deduced from the submitted data and tax policy considerations are no longer transparent.