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THE SUBMISSION OF FISCAL DECLARATIONS BY ELECTRONIC MEANS OF TRANSMISSION AT DISTANCE

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Summary:

The unprecedented development of information technology in the past few years has made possible the transmission of information, inclusively fiscal information, by electronic means of transmission at distance.

Tax payers can use the method of submission of fiscal declarations by electronic means of transmission at distance as alternative method of deposition of fiscal declarations. The date of deposition of a fiscal declaration is the date of its registration on the site of the Ministry of Economy and Finances, A.N.A.F. portal.

The declaration submitted by electronic means is presumed to be signed by the person authorized to sign fiscal declarations, whose signature was attached to the declaration, according to the used digital certificate.

The issue of simple and qualified certificates is done by the suppliers of services of certification administered by the National Authority for the Settlement in Communications and Information Technology.

The period of validity of a certificate is of maximum 1 year from the date of communication by the client.

In case of **renewal** of a qualified certificate there is issued a new certificate with the same identification and checking data of the electronic signature, as the other validity data.

For the submission of fiscal declarations by electronic means of transmission at distance, tax payers should use the service "Depose on-line declarations" existing on the MMSF site, on A.N.A.F. portal.

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The unprecedented development of information technology in the past few years has made possible the transmission of information, inclusively fiscal information, by electronic means of transmission at distance. The legal framework of transmission of information by electronic means is settled by Law no 455/2001 regarding the electronic signature and the technical and methodological norms of application approved by Government's Decision no 1259/13th of December, 2001. The submission of fiscal declarations using electronic means is possible since 2003, beginning with fiscal declarations of the month of April and which have a declaration deadline in May. The fiscal procedure code has foreseen since its coming into force (on the 1st of January, 2004) that fiscal declarations can also be transmitted by systems of transmission at distance.

In order to understand why the deposition of declarations by electronic means of transmission at distance is possible, we consider necessary to present the juridical regime of electronic documents and of electronic signature, as well as the conditions of certification of the electronic signature.

The electronic document, to which it has been incorporated, attached or logically associated an electronic signature, recognized by that to which it is opposed to, *has the same effect* as the authentic document between those who have subscribed it and the ones who represent their rights.

The electronic document represents a collection of data in electronic form amongst which there are logical and functional relations and which render letters, numbers, or any other symbols with intelligible significance, meant to be read by means of an informatics program or by any similar means.

The electronic signature represents data in electronic form, which are attached or logically associated with other data in electronic means and which serve as a method of identification.

The certificate represents a collection of data in electronic form that certifies the link between the data of verification of the electronic signature and a person, confirming the identity of that person.

The electronic document, to which it has been incorporated, attached or logically associated an extended electronic signature, based on a qualified un-suspended or un-revoked at the respective moment and generated with the help of a secured device of creation of an electronic signature, *is assimilated, as far as conditions and its effects are regarded, with the inscription under the private signature.*

The extended electronic signature represents the electronic signature that cumulatively complies with the following conditions:

- it is uniquely linked to the signatory;
- it ensures the signatory's identification;
- it is created by means exclusively controlled by the signatory;
- it is linked to electronic data to which there is reported so that any ulterior change of these data is identifiable.

The qualified certificate represents a certificate issued by a supplier of certification services, that complies with the following conditions:

- the indication of the fact that the certificate was issued with the title of qualified certificate;

-the identification data of the supplier of certification services, as well as his citizenship, in the case of physical persons, respectively his nationality, in the case of juridical persons;

-the signatory's signature or his pseudonym, identified as such, as well as other attributes specific of the signatory, if they are relevant, depending on the objective for which the qualified certificate is issued;

-the signatory's personal identification code;

-the signature's verification data, that correspond to the data of creation of the signature under the signatory's exclusive control;

-the indication of the beginning and end of validity of the qualified certificate;

-the extended qualified signature of the supplier of certification services – supplier who issues the qualified certificate;

-if the case, the limits of use of the qualified certificate or the valuable limits of the operations for which this can be used;

-any other information established by the authority of settlement and supervision specialized in the domain.

In the cases in which the written form is requested as a proof or validity condition of a juridical act, an electronic document complies with this request *if to it there has been incorporated, attached or logically associated* an extended electronic signature, based on a qualified certificate and generated by means of a secured device of signature creation.

In the case in which one of the parties does not recognize the document or the signature, the instance will always dispose that its verification be done by professional technical expertise. In order to do this, the expert or the specialist must require qualified certificates, as well as any other documents necessary for the identification of the document's author, the document's signatory or the certificate's owner.

The issue of simple or qualified certificates is done by suppliers of certification services registered in the Registry of suppliers of certification services administered by the National Authority for Settlement in Communications and Information Technology.

A certificate's validity period is of maximum 1 year since the date of communication by the client.

In the case of ***renewal*** of a qualified certificate, there is issued a new certificate with the same identification data and the same data of verification of the electronic signature, but with other validity data.

The method of submission of fiscal declarations by electronic means of transmission at distance was experimentally introduced in Bucharest and Ilfov county and it could be applied by tax payers for the declaration of fiscal obligations afferent to the month of January, 2007. In September, 2007, this method could be applied by tax payers from other 10 counties, and beginning with March 2008, it could be applied by tax payers from another 10 counties. Starting with the 1st of April 2008, the system of submission of fiscal declarations by electronic means of transmission at distance was generalized in the whole country.

Tax payers can use the method of submission of fiscal declarations by electronic means of transmission at distance as an *alternative method* of deposition of fiscal declarations.

The following fiscal declarations can be submitted by electronic means of transmission at distance:

-the Declaration regarding the payment obligations to the State budget, code 14.13.01.99/bis;

- the Declaration regarding the payment obligations to the budgets of social insurances and special funds, code 14.13.01.40;

- the Declaration regarding excises, code 14.13.01.03/a;

- the rectifying Declaration, code 14.13.01.00/r;

- the Declaration regarding the profit tax, code 14.13.01.04;
- the Deduction on VAT, code 14.13.01.02;
- the special Deduction on VAT, code 14.13.01.02/bis;
- the Deduction regarding excises, code 14.13.01.03;
- the Deduction regarding the tax on internal production crude oil, code 14.13.01.05.

The date of submission of the fiscal declaration is its registration date on the Internet site of the Ministry of Economy and Finances, the portal of the National Agency of Fiscal Administration.

The declaration submitted by electronic means of transmission is presumed to be signed by the person entitled and authorized to sign fiscal declarations, whose signature was attached to the declaration, according to the used digital certificate.

For the deposition of fiscal declarations by electronic means of transmission at distance, tax payers must use the service “submit online declarations” existent on the on the Internet site of the Ministry of Economy and Finances, the portal of the National Agency of Fiscal Administration.

In order to be able to use this method of submission of fiscal declarations by electronic means of transmission at distance, tax payers could require till April, the 30th, 2008, to the National Agency of Fiscal Administration, the issue of a **digital certificate**, used by tax payers only in relationship with the fiscal authority. Digital certificates **were issued for free** till April, the 30th, 2008 by the National Agency of Fiscal Administration, on the names of persons authorized to sign fiscal declarations.

Taking into account the fact that digital certificates issued by A.N.A.F till April, the 30th, 2008, according to normative acts that settled their issue, have different validity data, we raise the question till which date these certificates can be used. Thus, certificates issued on the basis of O.M.F.P. no 2210/2006, modified by O.M.F.P. no 521/03.04.2007, have a three-year validity period, while certificates issued in April 2008, according to O.M.E.F. no 858/19.03.2008 have a one-year validity period. The last normative act to which we have referred has no provision regarding the date till which there can be used digital certificates issued by A.N.A.F, prior to the month of April, 2008, but on the site of the Ministry of Economy and Finances, A.N.A.F. portal we find the information according to which “*the digital certificate issued by A.N.A.F. is valid till the 1st of May, 2009*”.

Starting with the 1st of May, 2009, digital certificates will be required only from suppliers of services of certification acknowledged according to Law no 455/2001.¹

At the date when the normative act mentioned above came into force, there was founded the Registry of suppliers of services of certification that was constituted by and updated, according to legal provisions, by the authority of settlement and supervision from the Ministry of Communications and Information Technology. Tax payers who wish to obtain a qualified digital certificate can directly access the web address “ars.mcti.ro/” where they can find information on the legislation in the domain of electronic signature, the Registry of suppliers of certification services, as well as links to web pages of these suppliers.

After obtaining the qualified digital certificates, in order to use the service “Submission of online declarations”, one need to accomplish the following operations:

- registration of the person who owns a qualified digital certificate, authorized by the tax payer to sign fiscal declarations, as user of the service “Submission of online declarations”
- deposition of form **150 “Demand for the use of a qualified digital certificate”**, accompanied by the document of confirmation of a qualified digital certificate, existent on the site of the Ministry of Economy and Finances, the portal of the National Agency of Fiscal

¹ Law no 455/July, 18th, 2001 regarding the electronic signature, published in the Official Monitor, no 429/ July, 31st, 2001.

Administration. The confirmation document is submitted in electronic form, digitally signed by the applicant and confirmed by electronic signature of the certification authority;

The demand for the use of a qualified digital certificate is filled in, then it is electronically transmitted, and the printed copy signed and stamped by the tax payer, is submitted by the person authorized to sign fiscal declarations, at the fiscal authority in whose territorial area the tax payer has his fiscal residence.

On the basis of submitted documents, the fiscal authority checks the date filled in the form, and the copy of the applicant's identity document and the document regarding the applicant's right to sign fiscal declarations is annexed to the demand.

Confirmation of the right to use the service "Submission of online declarations", electronically signed by the use of a qualified digital certificate, issued by a supplier of certification services acknowledged within the conditions of Law no 455/2001, is transmitted to the applicant, by electronic mail, at the address mentioned in the demand.

The cancellation of the right to use the service "Submission of online declarations" is requested by the wner of the qualified certificate, by filling in and transmitting the form **151 "Demand for the cancellation of the right to use the service Submission of online declarations"**, which is transmitted by electronic means of transmission at distance, by functionalities placed at disposal by the service "Submission of online declarations".

In the case when the cancellation of the right to use the service "Submission of online declarations" is requested by a person different than the person for whom this right has been obtained, "The demand for the cancellation of the right to use the service Submission of online declarations" is submitted on paper, signed and stamped by the tax payer, according to the law, at the general direction of public finances in whose territorial area the tax payer has his fiscal residence.

The demand will be accompanied by the following documents:

-the identity document of the person who demands the cancellation of the digital certificate, in original and in copy;

-the document issued by the tax payer, from which it results the right of the applicant to cancel the right to use the service "Submission of online declarations".

The cancellation of the digital certificate issued by A.N.A.F. is requested by its owner by filling in and by the electronic transmission of form **141 "Demand for the cancellation of the digital certificate"**.

In the case in which the cancellation of the digital certificate is requested by a person different than the person for whom the certificate was issued, the demand for the cancellation of the digital certificate is submitted on paper format, signed and stamped by the tax payer, according to the law, at the general direction of public finances in whose territorial area the tax payer has his fiscal residence, accompanied by the following documents:

-the identity document of the person who demands the cancellation of the digital certificate, in original and in copy;

- the document issued by the tax payer, from which it results the right of the applicant to cancel the digital certificate.

Conclusion: Fiscal declarations submitted by electronic means of transmission at distance produce the same juridical effects as the declarations submitted in paper format or electronically, but this method of submission represents an advantage not only for tax payers, since we need not request the movement of the fiscal authority, as well as for the fiscal authorities, since there is not necessary anymore an operation for the registration and processing of these documents.

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