

E-Balance Sheet and E-Tax Return

1. Summary

The financial authorities require that taxpayers must in future submit their tax returns to the fiscal office electronically (key word: e-tax return, or in German ELSTER, the abbreviation of Elektronische Steuererklärung).

This requirement includes not just the tax return itself but also the tax balance sheet that has to be attached to the tax return (key word: e-balance sheet).

The commercial financial statements together with the associated audit and disclosure requirements are not affected. The e-tax return and e-balance sheet are only tax obligations.

The e-tax return is not a new subject. It has been possible to submit tax returns to the fiscal office electronically for some years now. That this has not yet been accepted by everyone is due to the fact that this method of transmission does not offer the taxpayer any significant benefits.

The subject is now relevant because the electronic submission of e-tax returns and e-balance sheets has now become obligatory.

Understandably, a considerable amount has been written on this subject during the last few months – somewhat too drastically in our opinion. On the next few pages we provide a brief and pragmatic summary of what will soon be required of all us.

2. Who is affected?

All taxpayers who receive income from profits in accordance with § 2 paragraph 1 nos. 1 to 3 of the Income Tax Law are required to submit **e-tax returns**. This includes income from agriculture and forestry, commercial operations and work done by freelancers and the free professions.

All companies who prepare a balance sheet are required to submit an **e-balance sheet**, i.e. those companies who calculate their profit in accordance with § 4 paragraph 1, § 5 or § 5a of the Income Tax Law. These are practically all entrepreneurs who prepare a commercial balance sheet and those who, although not entrepreneurs, are required to prepare a balance sheet for tax purposes.

Entrepreneurs who calculate their profit according to the receipts and expenditure method are excluded. But these entrepreneurs are still required by § 60 paragraph 4 of the Income Tax Enforcement Regulation to submit their re-

ceipts and expenditure in the stipulated form (attachment EÜR) as part of the submission of the e-tax return.

Moreover, the obligation to submit an e-balance sheet is irrespective of

- the size and legal form of the company,
- whether the balance sheet was prepared voluntarily or was mandatory and
- whether only a commercial balance sheet (possibly with a reconciliation for tax purposes) or also a tax balance sheet is prepared.

3. When must the submission be made?

The date on which the electronic submission of the e-tax return and the e-balance sheet becomes obligatory has been postponed several times. The submission dates have however now been fixed.

Since the balance sheet has to be submitted together with the relevant tax return, in practice the same date applies to both. There are only timing differences with respect to when these documents have to be submitted electronically. The e-tax return will become compulsory before the e-balance sheet.

The opportunity and the obligation to submit **tax returns** electronically have been developing for several years. Thus, it is already compulsory that current tax returns such as the wage tax return and the preliminary VAT return must be submitted electronically.

Until now, the annual tax returns for income tax, corporation tax, trade tax and value added tax have all been excluded from compulsory electronic transmission. The law now requires that, with effect from assessment year 2011, these tax returns will also have to be submitted electronically.

But as a general rule, the fiscal office will not object if the 2011 tax returns are still submitted in paper form. We currently assume that the fiscal office will insist on a universal submission in electronic form with effect from **assessment year 2012**.

According to the law, the submission of the **e-balance sheet** will become compulsory for financial years beginning after 31.12.2010 (in 2011 therefore). The fiscal office will however not object if the first financial year beginning after 31.12.2011 (i.e. 2012) is not yet submitted in electronic form.

The submission of balance sheets and statements of income in electronic and standardised form will therefore not

become compulsory until **financial years beginning on or subsequent to January 1st 2013**.

There is therefore a difference in timing between the compulsory transmission of the e-balance sheet (in 2014 for 2013) and the e-tax return (in 2013 for 2012).

As Pape & Co., we will convert our processes for the preparation of tax returns to electronic transmission at the beginning of 2013. Should the e-balance sheet not yet be compulsory for you, we will allow you to decide whether you wish to submit electronically or on paper. We recommend however that both the 2012 tax returns and the associated balance sheet should be submitted electronically.

4. What has to be submitted?

In the case of **tax returns**, only the information in the tax forms has to be submitted. Supplementary lists, individual attachments, tax assessments or other original documents must be sent to the fiscal office by post. In addition, the system requires that certain data cannot (yet) be submitted electronically – here too paper forms have to be sent to the fiscal office.

In the case of the **e-balance sheet**, in addition to certain master data, the following basic schedules must be submitted electronically:

- commercial balance sheet,
 - commercial statement of income and
 - tax transition calculation
- or**
- the tax balance sheet.

The following must also be submitted:

- other types of tax balance sheet (e.g. business termination/disposal balance sheet, merger balance sheet amongst others)
- in the case of partnerships:
 - capital development accounts,
 - special-purpose balance sheets,
 - supplementary balance sheets.(reliefs will apply here until 31.12.2014)

Moreover, additional accounting schedules (e.g. fixed assets development, cash flow statement etc.) may also be submitted voluntarily. Notes to the financial statements or a management report do not have to be submitted. At Pape & Co., until further notice, we will not transmit voluntary documents to the fiscal office electronically on behalf of our clients.

The transmission must be made in accordance with a special “**taxonomy**”. The taxonomy is based on the classification requirements of the Commercial Code; there are therefore particular taxonomies for different industries, such as for example banks, insurance companies etc.

The degree of detail in the classification in taxonomy considerably exceeds that required by the Commercial Code for the balance sheet and statement of income. The Asso-

ciation of German Tax Advisers (“*Bundesteuerberaterkammer*”) has calculated that corporations that according to § 266 of the Commercial Code were previously required to provide 62 items of information in their balance sheet will now be required by taxonomy to fill in 465 input fields, of which 178 are compulsory. The situation is similar in the statement of income. Sole traders and partnerships are required to fill in even more.

We discuss so-called “matching” of bookkeeping accounts with taxonomy items further below.

5. Are there any reliefs?

Companies for whom the e-tax return or e-balance sheet would genuinely represent an unfair hardship have the opportunity to submit an application, not tied to any particular form or deadline, allowing them to continue to submit in paper form. The rule on hardship cases is only applied under exceptional circumstances and is intended particularly for very small businesses. A hardship case is said to exist when compliance with electronic transmission requirements would, in the financial authorities’ opinion, be intolerable for economic or personal reasons.

6. How does the data have to be transmitted? (data format, types of access and software)

One can obtain information on the **data format** required by the financial authorities for electronic transmission under www.estuer.de.

The XBRL format (Extensible Business Reporting Language) has been laid down as the format for the e-balance sheet and statement of income, that can also be used for disclosures in the electronic Federal Gazette (“*Bundesanzeiger*”). The data transferred may relate to the tax balance sheet, but the entry of commercial balance sheet data together with a reconciliation to the tax balance sheet is also permitted.

The financial authorities offer three types **of access** for electronic submission that are differentiated by the degree of security:

- authenticated with an electronic certificate (for all types of tax)
- authenticated with a compact tax return (in future only for annual income tax, value added tax and trade tax returns)
- open transmission (for preliminary VAT returns and wage tax returns – only possible until 31.12.2012.)

The taxpayer (or his authorised representative) must register with www.elsteronline.de or some other authority for authentication purposes.

Whichever electronic access is selected, suitable **software** will always be required in order to transmit. The financial authorities themselves only offer software for the transmission of the tax forms (www.elster.de).

The financial authorities have no software for the e-balance sheet. The taxpayer is dependent on the software supplier to his accounting department or a third party provider.

7. What precisely has to be done?

Whether anything is required of you with respect to the **e-tax return** depends on whether you wish to submit the tax return to the fiscal office yourself or whether you delegate this work to your tax adviser.

If you yourself wish to submit, you must obtain the software required for this purpose and enter the data in your tax return into the system. You must, as at present, submit by post any vouchers, individual attachments and – depending on the method of access – the signed, compacted tax return to the fiscal office.

But you can also have your tax return submitted by your tax adviser. Pape & Co. will send you the completed tax return as usual and leave you with the option of instructing us to handle the electronic transmission.

The following typical cases occur in the electronic transmission of the **e-balance sheet**:

- (1) You have the annual financial statements prepared by a tax adviser.

The tax adviser prepares the balance sheet, using as a rule the software supporting the electronic transmission of the balance sheet. Should he also have been instructed to prepare the tax return on your behalf, he has all the information available that has to be submitted to the fiscal office as part of the e-balance sheet.

Pape & Co. sends you the completed financial statements and the associated tax return as usual and leaves you the option of instructing us to handle the electronic transmission.

- (2) You prepare the annual financial statements yourself but let a tax adviser prepare the tax return.

In this case, the data required is divided between you and the tax adviser. Should you be able to transmit the e-balance sheet to the fiscal office with your IT system yourself, you will enter the tax transition calculation prepared by the tax adviser into the system and then transmit it yourself.

Alternatively, you send the information for the balance sheet and the statement of income to your tax adviser. The tax adviser then enters this data into his system in order to classify them in the taxonomy and then transmits them to the fiscal office. How exactly this is done, must be determined in each individual case.

As Pape & Co., we will generally ask you to provide us with your lists of totals and balances as a data export. We then transform your data to the DATEV SKR 04 chart of accounts, import the data into our system and process them for the e-balance sheet in order to be able to transmit them to the financial authorities.

We assume that later there will be an additional technical alternative here: you would export your data already in the taxonomy format. That means that you would also handle the matching of your accounts to the taxonomy. We then read this export into our system and add the additional tax data to the data supplied by you in order then to transmit them.

- (3) You prepare both the annual financial statements and the tax returns yourself.

In this case, you should acquire adequate software to support a complete transmission of the data in your e-tax return and e-balance sheet to the financial authorities.

It should be noted that the transmission of e-balance sheets is still operating on a trial basis for the financial authorities too. One cannot therefore predict the possibilities that might exist later, especially as regards cooperation between the client and his advisers. Simply ask us if you have any questions.

8. Is it already too late?

Anyone who follows the literature on this subject will easily gain the impression that, for the purposes of the e-balance sheet, major parts of the accounting system will have to have been adapted to the e-balance by 31st December 2012.

Here are a few remarks intended to put the situation into its proper perspective, without however denying the fact that every entrepreneur who prepares a balance sheet should get to grips with the situation now.

- (1) Whether and to what extent the taxpayer will really have to change his accounting practice in order to prepare the data in accordance with the taxonomy depends on the circumstances in each individual case. If the current accounting system is based on an appropriate standard chart of accounts, the transition to the e-balance sheet should essentially be achievable by a simple classification of accounts. In this case, only a few accounts have to be split manually for the purposes of the taxonomy.
- (2) The e-balance sheet is a purely tax requirement for the transmission of data. As a rule, the first transmissions will take place in 2014 with the 2013 tax returns.

That means that the e-balance sheet does not have to be mapped in the taxonomy until 31.12.2013.

- (3) Although the taxonomy requires considerable depth of detail, our initial experiences show that a large part of the required matching can be dealt with by allocating the existing bookkeeping accounts individually to taxonomy items.

This is due to the many so-called fallback items that were added to the taxonomy under pressure from industry. If certain bookkeeping accounts cannot be clearly allocated to a taxonomy position, they may be allocated to the fallback items. It is currently unclear how long the fallback items will remain in existence; we currently assume however that they will be available until 2017 at least.

In practice therefore there are only a few accounts that do not match the taxonomy and for which there is no fallback position. These must be divided up manually as part of preparing the e-balance sheet.

- (4) It is becoming clear that a change in the chart of accounts and therefore of accounting practice is only necessary should
- one wish to avoid dividing accounts manually as part of preparing the e-balance sheet or
 - one not wish to use the fallback items referred to and thereby achieve an optimum correlation between the chart of accounts and the taxonomy (so-called maximum strategy).

Please contact us in order to discuss what makes most sense for you.

- (5) You might find it useful to consult taxonomy on the web site www.eststeuer.de in order to gain an idea of how the taxonomy "works".

That means ultimately that nothing is too late here. Nevertheless, it might be useful for clients that post accounts or prepare financial statements themselves to investigate together with their tax consultants how "taxonomy-compatible" their own chart of accounts is.

It can also be decided in this connection whether it makes sense in future to prepare one's own fiscal balance sheet. This is not required by the e-balance sheet; a tax transition calculation is sufficient for this purpose.

Please contact us if we can be of any help in your deliberations.

9. Conclusion – the sense or nonsense of the new regulation

It is certainly to be welcomed that the financial authorities are working on a project that means that data that the companies have in electronic form do not have to be

printed out in order then to be manually processed again by the employees of the financial authorities.

According to the financial authorities, the e-tax return and e-balance sheet initiative is also intended to optimise process flows between companies and the financial authorities and to expedite the preparation, submission and processing of tax returns.

Quite apart from this consideration, over the medium-term the conversion will enable the financial authorities to carry out risk assessments by matching data electronically and to use this as a basis for selected requests and in initiating external audits. Given this situation, it may make sense for taxpayers to consciously use taxonomy and to do away with fallback items in order to avoid predictable automatic follow-up enquiries by the financial authorities.

Unfortunately, the electronic transmission of the annual financial statements in particular entails considerable initial conversions costs for companies. For tax advisers too, the conversion of processes to enable tax returns and balance sheets to be transmitted electronically entails increased expenses and therefore increased fees for clients, due particularly to the associated obligation to ensure that only data is transmitted that the client has seen and has approved. That the draft law describes the costs to business of this conversion as "zero" is more or less only an amusing detail in this project.

It is also a pity that the tax authorities have been unable to match the e-balance sheet taxonomy with the tax forms. This will lead to discrepancies and follow-up questions that could really be avoided. It must also be assumed that this integration will come later so that we anticipate that the taxonomy will be subject to a considerable transformation during the next few years.

Be that as it may, there is no alternative but to tackle electronic data transmission of e-tax returns and e-balance sheets. We wish you every success in the conversion and will be glad to provide support.

Best wishes

Pape & Co.

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