

立法會

Legislative Council

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Report of the Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2001

Purpose

This paper reports on the deliberations of the Bills Committee on the Inland Revenue (Amendment) (No. 2) Bill 2001.

Background

2. In line with Government's policy of using information technology (IT) to improve Government services to the public, the Inland Revenue Department (IRD) introduced electronic filing of Tax Return - Individuals (i.e. a composite tax return on Salaries Tax, Property Tax and Profits Tax for individuals) and Property Tax returns under Government's Electronic Service Delivery (ESD) Scheme in January 2001. In addition, IRD introduced in April 2002 a system to allow electronic filing of Profits Tax returns in Electronic Government Forms (e-Forms). Under the present mode of operation, taxpayers are required to use their digital signatures for authentication and signing for tax returns filed under the ESD Scheme and in e-Forms.

3. To encourage more taxpayers to file tax returns through the ESD Scheme, IRD proposes to provide alternative means, i.e. the use of passwords, for electronic authentication and fulfilment of the signature requirement for tax returns filed under the ESD Scheme. In addition, IRD also proposes to allow the filing of these tax returns by telephone.

4. While the legal basis for the use of electronic records and digital signatures in filing these tax returns under the ESD Scheme and filing of Profits Tax returns in e-forms have been provided for in the Electronic Transactions Ordinance (ETO) (Cap. 553), that for the proposed use of a password as an alternative to a digital signature under the ESD Scheme and the telefiling of tax returns to satisfy the signature requirement are not provided for in either the ETO or the Inland Revenue Ordinance (Cap. 112). Specific provisions in the Inland Revenue Ordinance are therefore necessary.

The Bill

5. The Bill seeks to provide a legal basis for -
 - (a) the use of password for authentication and fulfilment of signature requirement for tax returns filed under the ESD Scheme; and
 - (b) the filing of tax returns by telephone.

The Bills Committee

6. At the House Committee meeting on 18 January 2002, Members formed a Bills Committee to study the Bill. Under the chairmanship of Hon Eric LI, the Bills Committee has held five meetings with the Administration, including one meeting to listen to views of the deputations. The Bills Committee has received a total of nine written submissions from relevant professional bodies and the IT sector.

7. The membership list of the Bills Committee is in **Appendix I**. The list of organisations which have given views to the Bills Committee is in **Appendix II**.

Deliberations of the Bills Committee

Interface with the Electronic Transactions Ordinance

8. The Bills Committee has expressed concern about the interface of the Bill with the ETO, which was enacted on 5 January 2000 to provide legal recognition for electronic records and digital signatures, and to establish a voluntary recognition scheme for certification authorities (CA) in promoting and facilitating the development of e-business in Hong Kong.

9. The deputations that have given views to the Bills Committee have pointed out that the ETO recognised digital signature as the only proven technology (among known electronic signatures) which satisfies the requirements of authentication, confidentiality, integrity and non-repudiation. They also consider that, as a matter of principle, before the ETO is duly revised to include the use of password, government services should not try to bypass the ETO and apply another technological option like the password.

10. The Administration has explained that the ETO aims to remove impediments to the development of e-commerce and e-government in Hong Kong by providing a clear legal framework for the conduct of secure electronic transactions. It is not the Government's policy intention to put all legislative provisions concerning electronic transactions in the ETO, as such an approach may not be possible or practical. The ETO has therefore allowed for specific

needs and situations to be dealt with in a self-contained manner in other ordinances. Section 14 of the ETO specifies needs and that if an ordinance accepts the electronic process and contains an express provision with specific requirements, procedures or other specifications for the purpose, then the ETO is not to be construed as affecting that express provision. The Bill, which is to provide a legal framework for the use of password in filing tax returns, is one of the examples.

11. In the course of its deliberations, the Bills Committee has noted that the then Information Technology and Broadcasting Bureau (ITBB) had conducted a review of the ETO. One of the issues examined in the review was whether, in addition to digital signature, legal recognition should be extended to cover other forms of electronic signatures, including password.

12. The Administration has separately informed the Panel on Information Technology and Broadcasting and the Bills Committee in November 2002 that during the public consultation, some respondents expressed support for accepting password as satisfying the signature requirement, but many were opposed to or had reservations about the proposal. Those respondents opposing to the proposal had expressed concern about the security level offered by Personal Identification Number (PIN) or password, as it is a shared secret between the user and the application/service provider, and is less secure than digital signature. They also considered that the proposed recognition of PIN or password would weaken the incentive for the public to adopt digital signature, and the introduction of less secure alternatives would reduce the public's confidence in electronic transactions. There were also views that the ETO should remain to be technology-neutral, as in the case of some other jurisdictions.

13. The Administration has also informed the Panel and the Bills Committee that after evaluating the views obtained in the public consultation exercise, the Administration remains of the view that PIN should be introduced for services where the level of security offered by it is commensurate with the risk of the services involved so that users may have a wider choice and greater convenience. The Administration, having considered the comments received during the public consultation, would not propose to make a general and sweeping amendment to the ETO on the use of PIN or password for satisfying a signature requirement under law. Where the use of PIN or password is appropriate, the Administration will deal with it by specific legislation and will address the security concerns as appropriate.

Scope of the new service

14. The Administration has advised the Bills Committee that under clause 8 of the Bill, the Commissioner of Inland Revenue (CIR) is empowered to specify certain cases where the furnishing of return in the form of an electronic record and the use of the telefiling system are applicable. The intention is that the new service will apply to "Tax Return - Individuals" and "Property Tax Return - Property jointly owned or co-owned by Individuals", and the service is designed

to cater for straightforward returns which do not require the attachment of supporting documents.

15. For "Tax Return - Individuals" filed under the ESD system, the Administration has explained that the taxpayer must not have any sole proprietorship business with gross annual income of more than \$500,000 and does not claim full or partial exemption of income from employment. The Administration has estimated that 94% of the Tax Return for Individuals can be allowed for filing through the ESD system. As for the Property Tax Return, the ESD system will only apply to the two-owner property cases which account for 94% of the Property Tax Returns issued each year.

16. On the telefiling service, the Administration has explained that it is designed for individuals with simple salaries tax and property tax cases. For Tax Return for Individuals, the telefiling service is applicable, for example, to those who will not claim dependent parent allowance, and non-cash fringe benefits such as the provision of quarters. Despite such restriction, the Administration has estimated that some 800,000 taxpayers will meet the criteria for telefiling.

17. The Administration has provided in **Appendix III** details of the types of returns and the eligibility criteria for submitting such returns by electronic filing or telefiling system. These criteria will be published by notice in the Gazette after the Bill is enacted.

Costs and benefits of the proposed telefiling system

18. The Bills Committee has enquired about the estimated usage of the proposed telefiling system and whether the additional investments in the system are justified in terms of efficiency in the tax return process and convenience to taxpayers.

19. The Administration has responded that although about 800,000 taxpayers will meet the eligibility criteria for telefiling, the initial take-up rate may not be too high because taxpayers may need time to get used to the new service. However, the Administration expects that the rate will gradually increase over time to about 5% in the long term. In this connection, the Administration has informed the Bills Committee that, in the year 2000, the telefiling take-up rates ranged from 3% to 9% in other tax jurisdictions.

20. The Administration has also advised that the total cost for implementing the telefiling system is about \$4.8 million, and a staff saving of \$0.9 million a year could be achieved as a result of lesser demand for manual filing and data input. In addition, the proposed telefiling system will bring forth intangible benefits such as instant data validation and transmission, as well as providing taxpayers with another convenient option for filing tax returns.

Powers conferred on the Commissioner of Inland Revenue under the Bill

21. Hon Margaret NG has expressed concern that CIR is empowered under the new section 51AA(5) and (6) to make various provisions by notice in the Gazette and these are specified to be not subsidiary legislation. She has asked about the nature of these provisions and the reasons for these provisions to be specified as not subsidiary legislation.

22. The Administration has explained that the provisions to be made by CIR under the new section 51AA(5) and (6) are those related to the eligibility criteria for using the new service, the form and manner of furnishing electronic returns, and technical requirements such as the software and communication in relation to an electronic record. As these are routine operational matters and do not carry any significant policy implications, the Administration has proposed that CIR can deal with these matters. This is in line with the practice of other tax jurisdictions such as Australia, Canada, Singapore, the United Kingdom (UK) and the United States. Moreover, the Secretary for Commerce, Industry and Technology may also specify the manner and format for electronic submissions by notice published in the Gazette under section 11(2) of the ETO and the notice is not subsidiary legislation on the same grounds. The Administration has also advised that although such provisions will not require the scrutiny of the Legislative Council, the specification of the form and manner of tax return in Hong Kong are subject to the scrutiny of the Board of Inland Revenue.

Use of password for filing tax returns

The security and risks in using password as a signing device

23. The professional bodies and IT sector which have given views to the Bills Committee have expressed much concern about the security and the risks involved in the use of password as a signing device for filing tax returns. They are of the view that the proposed use of PIN or password for filing tax returns under the ESD Scheme and the telefiling system is not securely designed. They have pointed out that while PIN or password can achieve the purpose of identification and authentication, it cannot provide the same level of security as digital signature. Moreover, as password on an encrypted file can be retrieved with the possession of the encryption key, it cannot satisfy the requirements for non-repudiation (paragraphs 35 - 37 below refers).

24. A deputation has also pointed out the main risk of using password for filing tax returns is that a taxpayer will forget his password as it is used only once a year. In such circumstances, a taxpayer will write down his password and this will pose security risk.

25. To better understand the operation of the proposed systems, the Bills Committee has requested the Administration to demonstrate how the proposed systems operate. During the demonstration, the Administration has explained that under the proposed system for filing tax returns through the ESD Scheme, a

taxpayer may file his tax return either by using a digital signature, or by his Taxpayer Identification Number (TIN) and password. A taxpayer will have to first register with IRD if he wishes to file tax returns by password. After registration, he will receive the TIN and Access Code separately from IRD by post. The taxpayer will then have to register with IRD a 6-digit numeric password of his own choice. For security reasons, the password will not appear on the taxpayer's tax return or any document from the IRD. The Administration considers that it is the taxpayer's responsibility to keep his password safe.

26. Hon SIN Chung-kai has expressed reservation about the use of a 6-numeric password for filing tax returns under the ESD Scheme in Hong Kong, as UK has adopted an 8-digit alphanumeric password for filing tax returns by electronic means.

27. The Administration has explained that 6-digit password is commonly used in the commercial sector. Only numeric is used for the password as it is the intention that the same password would be used for the telefiling service. The Administration has assured members that a 6-digit numeric password can provide adequate protection against unauthorised access or tampering with the system. For example, if an incorrect password is entered five times, the password will be revoked by the system and the taxpayer concerned will have to register again for the service. The Administration believes that the TIN (which is a unique 9 or 10-digit numeric number), coupled with the password (a 6-digit numeric number), would provide sufficient security for tax return filing purposes.

28. Some members consider that it may not be necessary to adopt the same password for filing tax returns by Internet and by telephone, as a taxpayer will not use both systems to submit his tax returns. The IRD has responded that adopting the same password for both systems can save taxpayers from registering separately for different kinds of services and memorising different passwords. However, IRD will review, after implementation of the proposed systems, whether the length of the password should be increased and whether the same password should be used for other taxation services on the ESD or through the telephone.

29. A deputation has drawn the Bills Committee's attention to an incident of the UK Inland Revenue suspending its Internet Service for Self-Assessment (SA Online) in May-June 2002 following reports from some customers that they had seen information relating to other persons. The Bills Committee has requested the Administration to provide more information on the cause of the incident.

30. The Administration has made enquiries with the UK Inland Revenue about the incident. According to the UK Inland Revenue, the incident was a system fault due to a combination of unusual circumstances. However, none of these circumstances were relevant to the use of PIN or password as the authentication/signing token. The problem lies with the way in which the Internet "session cookie" identifying the user was managed and it could, in certain rare circumstances, be presented to another user. The UK Inland

Revenue has confirmed that they have never had any security or confidentiality problems with the use of PIN or password.

31. The Administration has advised that IRD's tax filing application under the ESD Scheme is of a different design. No user application data including passwords will be stored in the "session cookie" and the data will be end to end encrypted. Moreover, only IRD has the encryption key for access to the data. The Administration believes that the UK incident would not repeat in the Hong Kong tax filing system.

32. The Administration has also informed the Bills Committee that other tax jurisdictions (such as Australia, Canada, US and Singapore) have also accepted the use of passwords to sign tax returns for filing electronically, and no security problem associated with the use of password has come to the Administration's attention.

33. The Administration acknowledges that there is a difference in the level of security between using password and using digital signature. However, it stresses that IRD has established strict guidelines and procedures to ensure the security and protection of data transacted and stored in the systems. Moreover, periodic security assessment and review of the systems will be conducted by an independent party.

34. The Administration has emphasised that the new service is only to provide an option for the taxpayers, and the level of security in using password is considered appropriate for tax filing purposes. Having regard to members' concern, the Administration has undertaken to highlight in its publicity and information pamphlets on the new service that there is a difference in security between using password and using digital signature for filing tax returns under the ESD Scheme.

Non-repudiation

35. In the context of tax returns filing, apart from identifying himself by the use of a password, a taxpayer has to shoulder the legal consequences of filing any incorrect return which is criminal responsibility. The deputations have expressed concern that PIN or password cannot be used to achieve the purpose of non-repudiation for filing tax returns under the ESD Scheme or telefiling system. In response, the Administration has assured that IRD will not use the password alone to achieve non-repudiation. Instead, non-repudiation will be addressed in the following manner -

- (a) the "Terms and Conditions for Use of Password" under IRD's electronic filing services will include an express condition that the user must agree to keep his password confidential before he is allowed to use the services;

- (b) by virtue of the proposed section 2(5) and the existing section 51(5) of the Inland Revenue Ordinance, a person signing a return with his password electronically shall be deemed to be cognizant of the contents thereof unless the contrary is proved; and
- (c) in lawsuits, IRD will seek to establish to the Court that the taxpayer has used his password to furnish an electronic return and that these details have not been tampered with according to the internal control and administrative measures. The Court will then decide whether or not it accepts that the non-repudiation averred should be accepted or rejected.

36. On the vulnerability of the encryption algorithm adopted by IRD, the Administration has assured members that all stored passwords are encrypted using strong encryption algorithm. The encryption key consists of 16-digits, half of which is specified separately by each of the two Deputy Commissioners of Inland Revenue. The encryption key will also be changed from time to time, and all access will be logged for security control and audit trail purposes.

37. The Administration has also advised that the technical design of IRD's system will ensure that the password database can only be accessed by the login program of the system, and the Deputy Commissioners do not have access to the login system. In other words, no single officer in the IRD can retrieve the passwords.

Proposal to provide for a trustworthy system for the new services in the Bill

38. The Hong Kong Society of Accountants and some members of the Bills Committee have proposed that specific provisions be included in the Bill to prescribe that IRD should use a trustworthy system in its Electronic Return Filing Services. The Bills Committee notes that while section 37 of the ETO stipulates the requirements for a trustworthy system for the recognised CAs, no equivalent framework is provided for in the Bill.

39. The Administration has explained that the role and functions of IRD's Electronic Return Filing Services are different from the systems of the CAs. Under the CA system, the public can draw reference to the trustworthiness standard of recognised CAs and make an informed decision when relying on a CA's services to authenticate the identity of the parties to electronic transactions. However, in a tax return filing transaction under the proposed system, only the taxpayer and IRD are involved, and the system will not provide authentication service to third parties.

40. The Administration has further explained that IRD has always been obliged to ensure the security of its systems, whether for tax returns lodged in the conventional way or through the proposed electronic systems. The existing legislation, such as the Personal Data (Privacy) Ordinance and the secrecy provision in section 4 of the Inland Revenue Ordinance, already provides a

comprehensive framework on IRD's responsibility and accountability in the handling and protection of personal information collected from the public. The Administration therefore does not consider it necessary to introduce specific provisions in the Bill to stipulate the system security requirement for handling electronic tax returns.

Proposed improvements to the system

41. Some members of the Bills Committee have expressed concern that incomplete or incorrect tax returns inadvertently filed through the ESD will be an offence under the Inland Revenue Ordinance.

42. The Administration has explained that the proposed systems are designed to enable correction of data inputted in the filing process and to safeguard against inadvertent submission of data. The taxpayer will be allowed to check the accuracy of the data inputted and print a copy for verification, before making confirmation by "signing" the tax return with his password. The taxpayer will have to press the "submit" button or the "confirmation" key to send the tax return electronically to IRD. A reference number for the tax return filed will be generated by the system. Any subsequent amendments to the tax return filed through the ESD can be made in writing to IRD quoting the reference number.

43. To allay members' concern about the possibility of transmission failure in filing tax returns through ESD, IRD has agreed to provide an option for the taxpayer to receive an e-mail message from IRD acknowledging receipt of the tax return filed electronically. IRD aims to provide the new function by April 2004.

44. To provide greater convenience for filing tax returns electronically, the Administration has accepted members' suggestions and agreed to provide a "save and resume" function in the return filing application under the ESD, and a "retrieval" function for last year's electronic tax return data. The "save and resume" function is to enable a taxpayer who is not able to complete all information for his electronic return in one go to save the inputted data temporarily. The taxpayer can later retrieve the data from computer for amendment or completion for submission to IRD. The "retrieval" function is to enable a taxpayer who has filed his tax return under the ESD platform in the previous year to retrieve the data of that return for completing his tax return in the current year. As the majority of taxpayers may only need to update or amend a few entries of their tax returns, this will provide greater incentive for taxpayers to use the new service. The Administration intends to introduce these new functions in April 2004.

45. Some members have asked whether the proposed system supports other Chinese input methods (including writing pads) and other operating systems such as Linux. The Administration has advised that all input methods supported by the "Windows" operating system for producing Chinese characters, including writing pads, would be supported by the ESD. However, other operating

systems such as Linux are currently not supported by the tax return filing application under the ESD. Nevertheless, IRD will continually review and improve the functionalities and compatibility features of the return filing systems including support for other operating systems. At the Bills Committee's request, the Secretary for Financial Services and the Treasury will provide an undertaking to this effect in his speech during the resumption of Second Reading debate on the Bill.

46. Members of the Bills Committee are of the view that as the Bill aims to provide a legal basis for providing an option for the use of password and the use of telephone for filing tax returns, the design of the systems and the security issues are outside the scope of the Bill. The Bills Committee considers that it is the Administration's responsibility to provide sufficient security safeguards in the proposed systems, and suggestions made by members in this respect are only for the Administration's consideration.

Terminology and concepts used in the Bill

"Approving" a password

47. Some deputations consider that the reference to "approving" a password by CIR is inappropriate as it seems to suggest that there is an approval process in which the password selected by the taxpayer would have to be confirmed by CIR. They suggest that more specific terms be used to avoid such ambiguity. Some other deputations have suggested that the Bill should also define "password" as well as its policy and standards, as these are not provided for in the ETO.

48. The Administration has explained that the approval process in setting up a password involve the selection of numbers by the taxpayer that conform to the requirements prescribed by CIR, and also the process of transmission, verification, validation and recording of the selected numbers in IRD's computer system. All these processes are collectively embodied in the Bill as "approved by the Commissioner". The Administration considers such wordings adequate and appropriate. As the password is simply any combination of 6 numbers chosen by the taxpayer subject to the validation, recording and approval by CIR, the Administration does not consider it necessary to prescribe the password policies and standards in the Bill.

Any other signing device

49. The Hong Kong Society of Accountants has suggested that the reference to "any other signing device" should be removed from clause 8 of the Bill, as it will create uncertainty as to what other signing device will be accepted under the Inland Revenue Ordinance in future. Some other deputations and the Bills Committee have requested that "any other signing device" in clause 2(b) should also be removed.

50. The Administration has explained that "any other device" was added to cater for future technological development, such as when some signing device other than digital signature and password have attained the same level of security, and the legislation would not have to be amended. However, the Administration has accepted the view of the deputations and the Bills Committee, and will move Committee Stage amendments (CSAs) to delete "any other signing device" from both clause 2(b) and clause 8 of the Bill.

"Adopting" and "affixing" a password

51. Some deputations have expressed reservation about the reference to "adopting of" a password for the purpose of authenticating or approving the return in the proposed section 2(5), as such reference is not used in the ETO. These deputations consider that the use of password should be restricted to authentication purposes only, and this should be clearly spelt out in the Bill. They have also questioned that the term "adopt" is inconsistent with the term "affix" in the proposed new section 51AA (6).

52. The Administration has responded that the policy intention is to accept passwords as a form of signature for filing tax returns. Mere authentication is not sufficient for the purpose. The Administration also considers it appropriate to retain the word "affix" in the proposed new section 51AA (6).

53. Some members have suggested that for consistency and clarity, the Administration should consider replacing "adopting" in the proposed section 2(5) by "affixing of a digital signature to a return" and "inclusion of a password with a return", and replacing "for the purposes of this Ordinance" by "for the purposes of this section" in the proposed new section 51AA(7). The Administration has accepted members' suggestions and will move amendments accordingly.

"Reasonable excuse" for incorrect tax return filed electronically

54. Some members have expressed concern that taxpayers may be guilty of an offence for filing an incorrect tax returns filed inadvertently to IRD under the proposed systems. They have requested the Administration to provide in the Bill or in a code of practice how "reasonable excuse" may be used as a defence for filing incorrect tax returns.

55. The Administration has advised that the sanctions for filing an incorrect tax return are provided in sections 80(2) and 82A of the Inland Revenue Ordinance. A taxpayer will only be guilty of an offence for filing incorrect tax returns without reasonable excuse under these sections. Given the great variety of situations and the special circumstances of each case, the Administration does not consider it feasible or appropriate to state in the law or in a code of practice all those circumstances that may amount to reasonable excuse for filing an incorrect tax return. The Administration has stressed that benefit of doubt would be given to the taxpayer having regard to all relevant factors and the circumstances of each case. For illustration purpose, IRD will provide in its

homepage some examples which CIR would accept as reasonable excuse and hence a defence for filing an inaccurate return using a password.

56. The Administration has further explained that the Bill does not seek to provide specific or additional sanctions for filing tax returns by electronic means. As an electronic return is to be accorded the same status as a paper return, the existing provisions in sections 80(2) and 82A would apply.

Publicity plan

57. To address the concern raised by the Bills Committee and deputations that the taxpayers should be made aware of the difference in the level of security between using a password and a digital signature for filing tax returns, and individual user's responsibility in the safe keeping of his password, the Administration has undertaken to draw taxpayers' attention to these issues in the publicity leaflets to be sent to all taxpayers and also in the "Instruction Note" and "pop-up screens" for tax return filed under the ESD Scheme.

Committee Stage Amendments

58. The Administration will move CSAs to the Bill (paragraphs 50 and 53 above refers). The Bills Committee has not proposed any CSAs.

Follow up actions required

59. The Administration has undertaken that -

- (a) IRD will consider providing new functions, such as the "save and resume" function and "retrieval" function, in the tax return filing systems in April 2004 to enhance the convenience to taxpayers (paragraph 44 above); and
- (b) the Secretary for Financial Services and the Treasury will make an undertaking in his speech during the resumption of Second Reading debate on the Bill that IRD will continually review and improve the functionalities and compatibility features of the tax return filing systems including support for other operating systems (paragraph 45 above).

Recommendation

60. The Bills Committee supports the resumption of the Second Reading debate on the Bill, subject to the CSAs to be moved by the Administration.

Consultation with the House Committee

61. The Bills Committee consulted the House Committee on 14 February 2003 and obtained its support for the Second Reading debate on the Bill to be resumed.

Council Business Division 2
Legislative Council Secretariat
19 February 2003

**Bills Committee on
Inland Revenue (Amendment) (No. 2) Bill 2001**

Membership list

Chairman Hon Eric LI Ka-cheung, JP

Members Hon Margaret NG
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon SIN Chung-kai
Hon Howard YOUNG, JP

(Total : 6 Members)

Clerk Mrs Constance LI

Legal Adviser Mr Arthur CHEUNG

Date 22 July 2002

**Organisations which have given views to the
Bills Committee on
Inland Revenue (Amendment) (No. 2) Bill 2001**

- * 1. Professional Information Security Association
 - * 2. Information Systems Audit and Control Association
 - * 3. Hong Kong Society of Accountants
 - 4. Hongkong Post
 - 5. Office of the Privacy Commissioner for Personal Data
 - 6. Information Security and Forensics Society
 - 7. Digi-Sign Certification Services Limited
 - 8. Hong Kong Computer Society
- * Organisations which have also given oral representations to the Bills Committee.

[Notice under Sections 51AA(5) and (6) of the Inland Revenue Ordinance]

Cases specified by the Commissioner in which returns may be furnished in the form of an electronic record

Definition

- (1) The following words or terms used in this Notice shall have the meanings as stipulated below:

Electronic Government Forms	Government forms, in the form of a software, provided by Government to generate electronic records in a pre-defined format for members of the public to fill in electronically and submit to Government through electronic means.
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Electronic Service Delivery (ESD) System	The information system designated and used by Government for providing specified public services online to, and receive electronic information from, members of the community through the Internet and other electronic means.
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Types of return that may be furnished in the form of an electronic record and the manner of generating and sending the electronic record

- (2) Return set out in First Column furnished in electronic record shall be furnished in the manner correspondingly set out in Second Column.

FIRST COLUMN (Type of Return)	SECOND COLUMN (Manner)
a. Profits Tax Return - Corporations	Electronic Government Forms
b. Profits Tax Return - Persons other than Corporations	Electronic Government Forms
c. Property Tax Return - Property co-owned or Jointly owned by Individuals	Electronic Service Delivery (ESD) System
d. Tax Return – Individuals	Electronic Service Delivery (ESD) System

Specified cases in which returns may be furnished in the form of an electronic record

(3) *Tax Return – Individuals [Electronic Service Delivery (ESD) System]*

- a. The return is for the year of assessment 2001/02 [to be updated yearly].
- b. The person does not have any sole proprietorship business with gross annual income of more than \$500,000.
- c. The person does not claim exemption in respect of all or part of his employment income.

Property Tax Return – Property co-owned or jointly owned by individuals [Electronic Service Delivery (ESD) System]

- a. The return is for the year of assessment 2001/02 [to be updated yearly].
- b. The person with only 1 other person jointly own or co-own the property.

Profits Tax Return – Corporations [Electronic Government Form]

The return is for the year of assessment 2001/02 [to be updated yearly].

Profits Tax Return – Persons other than Corporations [Electronic Government Form]

The return is for the year of assessment 2001/02 [to be updated yearly].

Manner of affixing a signature to a return furnished in the form of an electronic record

- (4) Where a return is furnished in the form of an electronic record through the Electronic Service Delivery (ESD) System or by using the Electronic Government Form, the digital signature or password shall be affixed to the return in the manner as specified in the system or the software.

Requirements for attachment to be submitted with a return furnished in the form of an electronic record

- (5) Where a return is furnished in the form of an electronic record by using the Electronic Government Forms and supporting documents are attached to the return, the format of individual supporting document attached in an electronic record should comply with all the relevant requirements specified in the notices published in the Gazette by the Secretary for Information Technology and Broadcasting under Section 11(2) of the Electronic Transactions Ordinance (Cap. 553).

[Notice under Sections 51AA(5) and (6) of the Inland Revenue Ordinance]

Cases specified by the Commissioner in which returns may be furnished by using a telefiling system

Types of return that may be furnished by using a telefiling system

- (1) (a) Tax Return - Individuals
- (b) Property Tax Return – Property Co-owned or Jointly Owned by Individuals

Specified cases in which returns may be furnished by using a telefiling system

(2) *Tax Return – Individuals*

1. The return is for the year of assessment 2001/02 [to be updated yearly].
2. The person has properly filed his return for the preceding year of assessment.

Property Tax

3. The person has not disposed of any solely owned property during the year of assessment.
4. The person does not claim any deduction in respect of irrecoverable rental income.

Salaries Tax

5. The person does not receive non-cash fringe benefits, including quarters or share options.
6. The person does not claim exemption in respect of all or part of his employment income.
7. The person does not claim any deductions except contributions to recognized retirement schemes or approved charitable donations.

Profits Tax

8. The person does not have any sole-proprietorship business during the year of assessment.

Allowances

9. The person does not claim dependent parent allowance, dependent brother and sister allowance or disabled dependent allowance.
10. The person claims child allowance in respect of the same child as that for the preceding year of assessment.
11. The person does not claim married person's allowance in respect of his spouse living apart from him.

Personal Assessment

12. If the person is married, he does not elect for personal assessment.
13. If the person is not married and elects for personal assessment-
 - (a) he does not have any co-owned or jointly owned property that has been let during the year of assessment;
 - (b) he is not a partner of any business;
 - (c) he does not claim deduction in respect of interest paid for solely owned property that has been let during the year of assessment; and
 - (d) he does not claim concessionary deductions except approved charitable donations.

Property Tax Return – Property Co-owned or Jointly Owned by Individuals

1. The return is for the year of assessment 2001/02 [to be updated yearly].
2. The person with only 1 other person jointly own or co-own the property.

3. The person or the other owner has not disposed of the property in the year of assessment.
4. The person does not claim deduction in respect of any irrecoverable rental income.

Manner of affixing a password to a return furnished by using a telefiling system

- (3) Where a return is furnished by using a telefiling system, the password shall be affixed in the manner as specified in the telefiling system.

INLAND REVENUE (AMENDMENT)(NO.2) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By adding "Financial Services and" before "the Treasury".
2(a)(ii)	In the proposed definition of "password", by adding "in relation to a return required to be furnished under this Ordinance" after "Commissioner" where it last appears.
2(b)	In the proposed section 2(5), by deleting everything after "includes a reference" and substituting - "to - (a) the affixing of a digital signature (supported by a recognized certificate and generated within a period during which the certificate is valid) to; or

(b) the inclusion of a password with, the return for the purpose of authenticating or approving it."."

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In the proposed section 51AA -

- (a) in subsection (2)(c), by deleting "is" and substituting "are";
- (b) in subsection (5)(b), by deleting "person or return" and substituting "persons or returns";
- (c) in subsection (6), by deleting paragraph (b) and substituting -
 - "(b) how a digital signature is to be affixed to, or a password is to be included with, a return furnished under this section; and";
- (d) in subsection (7), by deleting "Ordinance" and substituting "section".