

立法會
Legislative Council

LC Paper No. CB(1) 767/01-02

Ref : CB1/PL/FA

**Paper for the House Committee meeting
on 11 January 2002**

**Report of the Panel on Financial Affairs
Submission of tax returns by electronic means and by telephone
with the use of a password**

Purpose

This paper reports on the deliberation of the Panel on the submission of tax returns by electronic means and by telephone with the use of a password at the Panel meeting held on 7 January 2002.

Background

2. At the House Committee meeting on 23 November 2001, when members considered the Inland Revenue (Amendment) (No. 2) Bill 2001 (the Bill), which was introduced to the Council on 21 November 2001, members noted that the Bill sought to provide the legal framework for submission of tax returns by electronic means and by telephone with the use of a password. Some members raised concern about the security of information contained in the tax returns in the course of filing the returns by these new means. Members agreed that as the policy aspects of the Bill had not been discussed by the relevant Panel prior to its introduction into the Council, the subject might first be considered by the Panel on Financial Affairs, before a decision was made on whether a Bills Committee should be formed to study the Bill.

Deliberation of the Panel

Security aspects

3. According to the Administration, internet filing by using a password is as secure as in the case of using a digital certificate, due to the use of strong encryption technology for end-to-end encryption. The use of a password as a signing device will not downgrade the degree of security. The Administration has also pointed out that the use of a password for authentication is widely adopted in the internet especially for most internet banking services, and internet filing of tax returns with the use of a password for authentication has also been implemented in other tax jurisdictions such as the United States, Canada and Singapore.

4. As regards the submission of tax returns by telephone, the Administration has advised that the public telephone network is considered to be a "trusted network" and is widely used by banks and public utilities companies for conducting electronic transactions. It is extremely difficult to hack into a telephone network system, and having regard to the nature of data transmitted through the telephone lines, the chance of security risk should be remote. Again, telefiling has been adopted by other tax jurisdictions including the United States, Canada, Australia and Singapore.

5. Members have also taken note of the administrative measures put in place by the Inland Revenue Department (IRD) to ensure data security.

6. Some members have expressed support for providing taxpayers with the proposed new channels for filing tax returns, which is consistent with Government policy of using information technology to improve Government services. Their views were as follows-

- (a) Although the use of passwords for authentication in electronic transactions does not provide the same level of security as the use of digital certificates, the use of passwords for internet filing of tax returns is acceptable given the technology available to ensure data security and the measures put in place by the Administration;
- (b) Given the proven experience of overseas tax jurisdictions in the use of passwords for authentication, and provided that the Administration exercises prudent monitoring of the systems, the proposed new filing channels should not give rise to security problems.

7. The Commissioner of Inland Revenue (C of IR) has advised that the Administration does not intend to equate the legal status of digital signatures with passwords. However, the Administration is confident that with the relevant technical and administrative measures put in place, using passwords for authentication can achieve a comparable standard of security as using digital signatures.

Cost-effectiveness

8. Some members have expressed concern about the cost-effectiveness of establishing and maintaining a telefiling system, in consideration that the system would probably be used by individual taxpayers once a year only, and that the utilization of this system among taxpayers may turn out to be low.

9. According to C of IR, the Administration cannot at this stage provide a precise estimate of the utilization rate of the telefiling system. While the utilization rate may be low during the initial implementation period as in the case of other Government electronic services, implementation of the proposed new services is an important step forward in enhancing IRD's services. IRD is

implementing a five-year programme to enhance its services through the use of information technology. The proposed new channels for filing tax returns form part of a comprehensive package of new electronic services to be launched by IRD. The use of a password for authentication is also applicable to other electronic services of IRD including the interactive tax enquiry services on the Internet.

10. As regards staffing implications of the proposed new services, C of IR has advised that upon completion of the five-year programme, it is envisaged that there would be manpower savings in IRD. There is no plan to create any additional directorate post in IRD to implement the proposed new services.

Efficiency of the telefiling system

11. Regarding the normal time required for telefiling a tax return, the Panel has noted that on average, it would take about five minutes for telefiling a Salary Tax return and about four minutes for a Property Tax return. IRD would be issuing a guidance note to taxpayers who have registered with IRD for the new service to facilitate their use of the service. The Administration has been requested to provide information on whether there is any way for a taxpayer who has used the telephone to file a tax return to review and verify the accuracy of the information he has submitted.

Interface with other electronic transactions - related legislations

12. The Panel has also examined the interface between the Bill and other legislations, such as the Electronic Transactions Ordinance (Cap. 553) (ETO) and the recently-introduced Import and Export (Electronic Transactions) Bill 2001.

13. According to the Administration, the ETO provides a generic legal framework for electronic transactions. Section 14 of the ETO provides scope for specific situations to be dealt with in a “self-contained” manner in another ordinance. While the use of a password for authentication may not be broadly applicable to all types of electronic transactions, it can be suitably applied to electronic filing of tax returns provided that there are proper measures in place to ensure data security. The Bill seeks to provide a self-contained and comprehensive legal framework to facilitate internet filing and telefiling with the use of a password for authentication.

14. The Panel has also noted that a review of the ETO is being undertaken and a relevant public consultation paper will be published in one to two months.

15. As regards the consistency between the Bill and the Import and Export (Electronic Transactions) Bill 2001, the Administration has undertaken to provide information in this respect.

Views of professional bodies

16. The Panel has noted two letters addressed to C of IR from the Hong Kong Society of Accountants (HKSA) and the Professional Information Security Association setting out their concerns and views on the submission of tax returns with the use of a password.

17. Mr Eric LI has advised the Panel of the position of the HKSA with regard to the proposed new services. In gist -

- (a) HKSA in principle supports the early implementation of proposed new services as additional channels to facilitate the submission of tax returns;
- (b) For the integrity of the legal framework governing electronic transactions, HKSA considers it preferable to have provided for in the ETO the changes sought to be effected by the Bill;
- (c) However, HKSA accepts that internet filing and telefiling of tax returns with the use of a password warrant specific arrangement as provided for under section 14 of ETO; and
- (d) The Administration should review the ETO as a matter of priority to examine whether and how the ETO should cater for the specific arrangements for electronic transactions provided for in other ordinances but not yet in the ETO. In the course of the review of the ETO, any inadequacies in the IRO in relation to electronic transactions should also be addressed.

18. Taking note of the views of the two organizations, a member pointed out the need to review the practical arrangements for C of IR to approve a user's password and the propriety of using the term "affix" in proposed section 51AA(6)(b) of Clause 8, which provides that C of IR may by notice published in the Gazette specify requirements as to how a digital signature or password or any other signing device is to be affixed to a return furnished under this section. The member also queried the necessity of including "any other signing device" in this proposed section, as this may add uncertainties to the scope of powers conferred on C of IR with regard to the specification of devices for authentication in relation to filing of tax returns. The Administration has undertaken to further review the drafting of the Bill taking into account members' comments and the views of professional bodies.

Other issues

19. The Panel has also invited the Administration to brief members on the availability of checks on the additional powers conferred on C of IR by the Bill. According to C of IR the relevant tax authorities in overseas jurisdictions are given similar powers in electronic filing and telefiling of tax returns. The powers

conferred on C of IR are administrative in nature and pertinent to the implementation of the proposed new services. The existing legal framework under the IRO has already provided adequate checks on C of IR's powers. As regards the timing for launching the proposed new services, while some members has considered it appropriate to launch the new services in April 2002 as currently scheduled, there was also a view among members that the relevant issues should be thoroughly considered to ensure propriety of the proposed legal framework and the security and reliability of the technical infrastructure.

Advice sought

20. Members are invited to take note of the deliberation of the Panel in considering whether a Bills Committee should be formed to scrutinize the Bill.

Council Business Division 1
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10 January 2002