

### Data Boxes – New Way of Communication with the State effective from 1 November 2009

As we informed you in the summer Tax Alert, the method of communication between the state administration and legal entities recorded in the Commercial Register is expected to significantly change starting 1 November 2009. From that date on, eGovernment Act No. 300/2008 Coll., which introduces “data boxes” to which a majority of electronic mail from public authority bodies will newly be sent, will be applicable. In this Tax Alert, we present the exact setup of this new system and its implications for you.

#### 1. Who Has the Obligation to Communicate Electronically with Effect from 1 November 2009?

With effect from 1 November 2009, public authority bodies will have the obligation to communicate with individuals and legal entities via data boxes, provided the addressees have established a data box and the character of the document enables it. In the case of immediate deliveries or public notices, letters will still be delivered in paper form. Since data boxes have automatically been established for legal entities recorded in the Commercial Register, most deliveries from the state administration to legal entities will newly be delivered electronically. Thus, registered mail will newly be sent electronically.

Individuals and legal entities, regardless of whether their data boxes are activated or not, will be able to send mail to public authority bodies in paper or electronic form after 1 November 2009 (ie these entities will have the opportunity to select the method of communication).

In the future (starting 1 July 2010), deliveries via data boxes will also be enabled between business entities.

#### 2. Who Will Have Access to the Data Box?

The statutory bodies of a legal entity will have access to the legal entity’s data box. The statutory bodies may allow other individuals to access the data box, either using the “authorised person” or “administrator” status. For both of these status types, the scope of authorisations to work with the data box can be precisely defined (such as reading of documents only, sending of documents only etc).

The statutory body should receive the identification data for data box access in a special type of envelope (with a brown stripe) that is intended for registered mail and cannot be delivered to another entity. If the statutory representative of your company has not received these access data yet, it is necessary to contact the local post office or the data box info line (tel.: +420 270 005 200) without undue delay.

#### 3. What is the Binding Force of Documents Sent from a Data Box?

An operation made by an authorised entity through a data box has the same effect as a signed document, unless another legal or internal regulation requires a cooperation of multiple persons. For example, if the statutory executives of a limited liability company are authorised to act independently on behalf of the company, the document sent from a data box will represent the company’s intent and is binding for the company.



Conversely, if the company's statutory executives act jointly on behalf of the company, the electronic signature of the relevant persons must be attached to the document before it is sent from the data box.

Currently, discussions are being held with the Ministry of Finance regarding whether tax returns and other documents sent via a data box of a business entity to the tax administrator will have to be provided with an electronic signature. We will inform you about the outcome of these discussions in due course.

#### **4. What Will Happen If I Do Not "Collect" Messages from my Data Box?**

A document sent to a data box will be considered delivered at the moment the authorised person that has access to the delivered document (ie is able to read it) logs into the data box. If the authorised person has not logged into the data box for a long period of time, the document will be considered delivered when 10 days have passed after its delivery to the data box. The assumption of delivery referred to above will thus also enable delivering registered mail through data boxes.

In cases defined by special acts, the addressee of mail that has been delivered using the assumption of delivery has the possibility to request the determination of non-delivery, whereby the practical application of such determination to individual cases will be based on court decisions.

The data box information system enables establishing either e-mail or SMS notifications regarding a delivery to the data box.

#### **5. What Happens If I Do Not Pick Up the Access Data to the Data Box?**

If a statutory body does not pick up the access data at the post office, or if it does not activate the data box on its own, activation will be done automatically as of 1 November 2009. In practice, situations may often arise where a public authority body will deliver mail electronically in line with applicable legislation, but the addressee will not have access to it due to the absence of access rights to the data box.

The contents of the delivered message will be deleted from the data box after 90 days; therefore, it is advisable to use the "data safety deposit" service for the purpose of archiving the contents of data boxes. This service is offered by many entities as a commercial application.

#### **Tips for the Correct Use of Data Boxes**

- Pick up your data box access data in time.
- Activate your data box in time; otherwise, it will automatically be activated on 1 November 2009.
- Authorise at least one other person to access the data box.
- Check your data box frequently, at least once every 10 days.

If you have any questions concerning the items in this publication, please contact your regular Deloitte Tax contact or one of the following experts:

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