

IMPACT OF TAX TECHNOLOGIES ON CURRENT AND FUTURE TAX COMPLIANCE

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Abstract

This article analyses the current tax technologies used by tax authorities, taxpayers and tax advisors. Certain success stories and ambitious endeavours for the future are mentioned as well. All these examples show the multilevel impact tax technologies can have in respect of tax compliance. The main concern is that in certain cases measures are taken too far and can easily lead to enhanced battles between taxpayers and tax authorities each side armed with advanced tax technologies in the future. In order to avoid such perspective, tax authorities should consider the OECD suggestion to establish enhanced relationship with taxpayers so that their inner motivation and respective usage of tax technologies would be oriented towards greater tax compliance rather than smarter tax avoidance.

Keywords: tax technologies, tax administration, enhanced relationship.

Introduction

As the OECD acknowledges, taxpayers pay very little interest in taxes and activities of tax authorities, and have an expectation that payment of taxes should be as easy as online shopping. In even more advanced form, taxpayers expect that in the future tax authorities should be able to deduct precise tax amounts out of taxpayers' accounts without any filling. Taxpayers also want to view processed data stored by tax authorities in real time or near real time, analyse it and report inconsistencies, if any. Instant feedback is what taxpayers expect from tax authorities nowadays. Speaking about digitally mature taxpayers, their expectations take even more advanced level where taxpayers expect to be serviced rather than just informed. This means that tax authorities should use tax technologies to make adjusted calculations and provide a ready-made comparison for consideration of taxpayers instead of sending a standard letter listing inconsistencies identified, and asking taxpayers to process, analyse and fix them.²

All these tendencies bring new challenges to tax authorities doing their best to keep up with changes of business processes highly influenced by disruptive technologies. A constant goal to balance between quality and reasonable spending has now evolved to a whole new level. Nowadays, not only businesses, but also tax authorities use technologies to differentiate taxpayers and respectively allocate further human and technological resources. Personalized approach defines directions in which tax authorities use technologies. And the

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² OECD, 'Technologies for Better Tax Administration. A Practical Guide for Revenue Bodies' (Paris: OECD Publishing 2016) 26-27.

use of technologies should lead tax authorities towards more accurate audits, new or improved services and, respectively, more trust from taxpayers.

1. Tax Technologies and Tax Authorities

Seeking for the mentioned goals, tax authorities are going digital across all over the world. Process of digitalization has already reached five levels each having a different level of data gathering and use of technologies.

Tax authorities operating on the 1st level (e-filing) use payroll, financial and other standard data gathered electronically from received tax returns and periodically match this data looking for inconsistencies, if any (*in this level operate the Netherlands, Sweden, Switzerland and Ukraine*).

Tax authorities operating on the 2nd level (e-accounting) use accounting, trial balances and other additional data gathered electronically from received standard reporting files (*in this level operate Austria, Belgium, Finland, Germany, Greece, Italy, Lithuania, Luxembourg, Norway, and the United Kingdom*).

Tax authorities operating on the 3rd level (e-matching) use even more advanced data such as bank statements in order to match data across different tax types, taxpayers and jurisdictions in real time or near real time (*in this level operate the Czech Republic, Denmark, France, Hungary, Ireland, India, Poland, Portugal, Slovakia and Turkey*).

Tax authorities operating on the 4th level (e-auditing) cross-check received tax fillings in real time or near real time to map the geographic economic ecosystem, in this level taxpayers receive from tax authorities electronic audit assessments to review (*in this level operate Russia*).

Tax authorities operating on the 5th level (e-assessing) assess tax dues without e-filing, in this level taxpayers are allowed to audit government calculated tax (*in this level operate Spain*).³

Success stories of particular countries are presented in this section below in order to show how much difference technologies have already made to standard ways of communication with taxpayers, data gathering and other processes of tax administration.

Most countries have developed special platforms as safe channels through which tax authorities communicate with taxpayers and receive electronic tax returns and other data. For instance, according to Making Tax Digital Plan⁴, by 2020 in the United Kingdom most businesses, self-employed people and landlords will be required to keep track of their tax affairs digitally and provide updates to tax authorities at least quarterly via their digital tax account.⁵

³ EY, 'Tax Authorities Are Going Digital: Stay Ahead and Comply with Confidence' [2017] 1.

⁴ See HM Revenue & Customs official website: <https://www.gov.uk/government/publications/making-tax-digital/overview-of-making-tax-digital>.

⁵ OECD, 'Technologies for Better Tax Administration. A practical Guide for Revenue Bodies' (Paris: OECD Publishing 2016) 88.

Some countries have implemented new methods allowing to identify taxpayers. For instance, in Australia voice biometric authentication service has been acknowledged as one of the most successful projects across the federal government. What started as a modest project in 2014 to improve the call centre experience for frustrated citizens has since expanded to the Australian Taxation Office's mobile app, and could have a future with the whole-of-government GovPass identity platform⁶. All taxpayers need to do is save their voiceprint with the ATO⁷. In New Zealand voice biometrics are also deployed to identify taxpayers calling for customer support.⁸

Seeking to tackle tax fraud and receive correct and accurate tax data, many countries developed special platforms for taxpayers allowing them to perform invoicing, accounting, filling and payment electronically. For instance, Chile introduced its e-invoicing system in 2002, which became mandatory for all businesses in January 2014. Swedish e-invoicing system includes a simplified accounting system for businesses, which provides the taxpayer with monthly financial statements and generates prefilled annual returns.⁹

Nowadays, Big Data solutions are inseparable from tax data cross-checking procedures in many countries. For instance, since 2015 the Russian tax authorities have been using Big Data software "ASK VAT-2"¹⁰ to monitor value added tax (VAT) compliance. VAT tax returns containing information about sales and purchase transactions are filed digitally in the XML file format. All incoming data is cross-matched and potential fraud cases are identified automatically. According to official information, implementation of the system allowed to increase revenue from VAT in 2015 by 12.2%.¹¹

Dealing with increase in e-Commerce, in 2005 the OECD Committee on Fiscal Affairs published the first version of the Standard Audit File for Tax (SAF-T) guidance encouraging revenue bodies to incorporate SAF-T into their audit and verification methodologies for tax audits. In 2010, the OECD Committee on Fiscal Affairs released guidance for the SAF-T Version 2.0.¹² In 2012, European Commission endorsed an Action Plan to Strengthen the Fight Against Tax Fraud and Tax Evasion. One of means to enhance tax compliance was EU SAF-T¹³. SAF-T was first introduced in Portugal in 2008, then Luxembourg, France, Austria, Lithuania and Poland. Countries next expected to adopt SAF-T in some capacity are Germany, the United Kingdom, Ireland and Czech Republic. Implementation of SAF-T in the OECD jurisdictions will provide greater opportunities for smoother international reporting as well as international auditing.¹⁴

⁶ See: <https://www.itnews.com.au/news/ato-touts-voice-biometrics-success-471136>.

⁷ See Australian Taxation Office official website: <https://www.ato.gov.au/General/Online-services/Voice-authentication/>.

⁸ OECD, 'Technologies for Better Tax Administration. A practical Guide for Revenue Bodies' (Paris: OECD Publishing 2016) 83.

⁹ OECD, 'Tax Administration 2017. Comparative Information on OECD And Other Advanced and Emerging Economies' (Paris: OECD Publishing 2017) 60.

¹⁰ See: <http://www.korpusprava.com/en/publications/analytics/vat-2015-big-data-collection-system-change-of-the-procedure-of-control-of-deductions-and-consequences-for-taxpayers.html>.

¹¹ OECD, 'Technologies for Better Tax Administration. A practical Guide for Revenue Bodies' (Paris: OECD Publishing 2016) 56.

¹² OECD, 'Forum on Tax Administration. Guidance Note: Guidance for The Standard Audit File – Tax Version 2.0' [2010] 7.

¹³ European Commission, Communication from The Commission to The European Parliament and The Council COM (2012) 722 final concerning an action plan to strengthen the fight against tax fraud and tax evasion [2012] 14.

¹⁴ See: <https://www.geanetwork.com/news-and-resources/articles/standard-audit-file-for-tax-saf-t-in-the-eu-and-beyond>

Countries that are moving towards e-assessment seek not only greater integration with internal systems of taxpayers, but also to implement integration with natural systems (accounting software, point-of-sale systems, cloud-based banking, etc.), which allows tax authorities to receive data straight from the systems of intermediaries who provide innovative services to taxpayers.¹⁵ In even better way, tax authorities assist intermediaries to develop products that would be primarily integrated with Big Data technologies of tax authorities. For instance, in the United Kingdom, tax authorities work closely with software developers to enable them to create new and more sophisticated products, for instance, application programming interfaces (APIs) with richer capabilities. Currently tax authorities have Application Programming Interface (API) in place for 21 of their services and the majority of transactions carried out online with tax authorities come via third party software.¹⁶

In recent years, tax authorities also began to use predictive techniques driven by technologies to identify proactive and responsive actions to assist taxpayers to meet their obligations. Such model has been launched, for instance, in Belgium. It informs tax collectors on the solvency or default risk and assists decision making process to enable early recovery action to be taken, in line with the predicted risk of bankruptcy. In Portugal such system even sends remainder notices to potential debtors.¹⁷

As in most countries, Lithuanian tax authorities use smart web portals such as EDS, Mano VMI system in order to communicate with taxpayers and allow them to submit tax returns electronically. In Lithuania SAF-T was introduced in 2015.¹⁸ Lithuanian taxpayers have to submit data of received and issued VAT invoices electronically using i.SAF subsystem and data of consignment notes and other cargo documents electronically using i.VAZ subsystem since October 2016. i.SAF data submitted by the purchaser and seller is cross-checked on the monthly basis. The Lithuanian tax authorities also assist taxpayers by preparing preliminary personal income tax returns, advance corporate income tax returns (prepared for the first time in March 2017¹⁹), VAT returns (prepared for the first time in June 2017²⁰). i.APS subsystem, which is basically a simplified free of charge accounting system, has been launched in 2019, and is available for Lithuanian taxpayers who carry out business

¹⁵ OECD, 'Technologies for Better Tax Administration. A practical Guide for Revenue Bodies' (Paris: OECD Publishing 2016) 80.

¹⁶ HMRC, 'Third Party Tax Software and Application Programming Interface (API) Strategy' [2015].

¹⁷ OECD, 'Tax Administration 2017. Comparative Information on OECD And Other Advanced and Emerging Economies' (Paris: OECD Publishing 2017) 110-111.

¹⁸ Procedure Concerning Submission of Accounting Data Using Standard Audit File for Tax approved by the 1 July 2015 Order No 699 of the Lithuanian Government. TAR, 2015, No 10833.

¹⁹ See Lithuanian tax authorities' official website: http://www.vmi.lt/cms/teises-aktai-ir-komentarai20/-/asset_publisher/Vi4M/content/pirmaji-karta-suformuotos-preliminariuosios-avansinio-pelno-mokescio-deklaracijos;jsessionid=C5E36292C3D627BC2DF4EDA1A73BDE49?_101_INSTANCE_Vi4M_redirect=http%3A%2F%2Fwww.vmi.lt%2Fcms%2Fteises-aktai-ir-komentarai20%3Bjsessionid%3D11F754FB266AE99ECBF946F724C81045%3Fp_p_id%3D101_INSTANCE_Vi4M%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_count%3D2%26p_r_p_564233524_resetCur%3Dfalse.

²⁰ See Lithuanian tax authorities' official website: http://www.vmi.lt/cms/vmi-naujienos/-/asset_publisher/SyuQPdSIE49Y/content/mokesciu-moketojams-pristatoma-nauja-i-mas-paslauga-%E2%80%93-preliminarijai-pvm-deklaracija

activities based on licence or certificate²¹. Electronic cash registers (as well as related i.EKA subsystem) should be introduced as of 2021²².

2. Tax Technologies and Taxpayers

Taking into consideration the fact how complex tax regulation and tax compliance procedures may be (for instance, in the United States, tax regulation in printed form exceeds 75,000 pages²³), it comes by no surprise that taxpayers and especially tax consultants invest their resources in creating tax technologies which, at the basic level, allow them to accelerate certain accounting, tax assessment and filling procedures, and, at the advanced level, simplify global tax planning. Although, there is a huge global demand for tax technologies derived by eagerness to simplify tax matters, current supply is not even close to satisfy such demand.

Usage of Big Data, cloud as well as Robotic Process Automation solutions²⁴ are old news to taxpayers and their advisors. Nowadays taxpayers seek for even more advanced tax technologies and tools driven by Artificial Intelligence design. For instance, optical character recognition enabled by Artificial Intelligence has already become a common feature of printers scanning checks and VAT invoices, recognizing data and including this data into accounting systems, and various tax fillings. Another example, system called Dexter has been used to optically read tens of thousands of tax fillings without human data entry or interventions.²⁵ These examples show that currently Artificial Intelligence has been used at the basic (1st) level so called “self-service”²⁶. Some tax consultants use it at more advanced (2nd) level by creating tax data visualizations.²⁷ However, project Odele is by far the most ambitious endeavour towards simplification of tax matters. If succeeded, tax planning assistant software, called Odele, will be able to compare taxes and income for a variety of tax configurations, assumptions and projections, and recommend optimal global tax planning configuration for a particular taxpayer. This software will be driven by Artificial Intelligence design (3rd level).²⁸ However, release of this software is still far from reality. Financial Gravity, the developer of this project, even launched a special prize²⁹ for a person

²¹ See Lithuanian tax authorities' official website: http://www.vmi.lt/cms/about-vmi/-/asset_publisher/hU6yeb4bVUJN/content/id/9434365
http://www.vmi.lt/cms/mokesciu-naujienos/-/asset_publisher/DkY4/content/id/9434192.

²² See Lithuanian tax authorities' official website: http://www.vmi.lt/cms/lt/naujienos/-/asset_publisher/Gizm3fjHUUgi/content/vmi-pasirase-es-finansavimo-sutarti-del-i-eka-posistemio-sukurimo;jsessionId=C52C22F96CB2888280EB6A53DB9E7F5B?accessibility=true.

²³ Dr. Cas Milner, Dr. Bjarne Berg, PwC, 'Tax Analytics. Artificial Intelligence and Machine Learning – Level 5' [2016] 8.

²⁴ See: <https://www2.deloitte.com/us/en/pages/about-deloitte/articles/press-releases/deloitte-wins-america-tax-innovator-award.html>.

²⁵ Dr. Cas Milner, Dr. Bjarne Berg, PwC, 'Tax Analytics. Artificial Intelligence and Machine Learning – Level 5' [2016] 16.

²⁶ *Ibid.*, 3.

²⁷ See: <https://www2.deloitte.com/us/en/pages/about-deloitte/articles/press-releases/deloitte-wins-america-tax-innovator-award.html>.

²⁸ See: <https://financialgravity.com/odele/>.

²⁹ See: <https://financialgravity.com/financial-gravity-companies-inc-announces-herox-prize-odele-ai-enabled-strategic-tax-planning-software/>.

who will create an application which would connect natural persons and their personal situations to the most ideal tax planning scenario.³⁰

Looking forward, we may expect even greater application of Artificial Intelligence. In tax area it means that predictive analytics, tax modelling and decision automation (4th level) as well as adaptive learning (data mining, machine learning, etc., 5th level) will exceed the greatest wish of taxpayers – due to services of digital tax assistants paying taxes will be much easier than online shopping.

3. Tax Technologies and Tax Compliance

From legal perspective, the increasing usage of tax technologies by tax authorities, taxpayers and tax consultants give raise to a fundamental question – what effect these changes will have in respect of compliance with tax laws?

From the perspective of taxpayers, it should be mentioned that, first of all, improvements of tax technologies do not always save money for taxpayers. For instance, in Brazil after introducing Public Sector of Digital Bookkeeping program, which includes e-invoices, it has been acknowledged that most of taxpayers ultimately suffered from higher compliance costs basically due to increased expenses for IT support and data management solutions³¹.

Also, as mentioned before, tax authorities seek to apply personalized approach in respect of taxpayers in order to perform more accurate audits and improve services. However, such measures sometimes can create new issues to taxpayers. For instance, as of 2018, new definitions of “reliable taxpayer” and “non-reliable taxpayer” were introduced in the Lithuanian Law on Tax Administration. Taxpayers depending on a specific category they fall within are subject to different statute of limitations, standard or simplified VAT refund procedure, etc. Among other things, non-reliable taxpayers are not allowed to participate in public procurement and are included in officially announced black list³². Speaking about large multinational companies, they usually have a materiality threshold, below which tax risks and inconsistencies are tolerated. Considering these new definitions, such multinational companies established in Lithuania are now at high risk of being listed among non-reliable taxpayers and, respectively, suffering from potential reputation loss of certain level.

On the other hand, the mentioned future trends of tax technologies show that taxpayers and tax consultants look for Artificial Intelligence designs which eventually would perform automated tax planning. Such attitude creates an issue to tax law makers and tax authorities aiming to tackle tax avoidance schemes. It also means that in case future Artificial Intelligence designs do not combine tax planning decisions with economic arguments of taxpayer’s business model and simply seek for the maximum tax advantage, taxpayers accepting such proposals will end up at high risk of tax exposure due to committed breach of General Anti-Abuse Rule implemented by the Council Directive in

³⁰ See: <https://www.herox.com/financialgravity>.

³¹ PwC, ‘Brazilian Tax in A Context’ [2013] 12.

³² Law on Tax Administration of the Republic of Lithuania. Valstybės žinios No 63-2243 [2004] Article 40¹.

2016³³. In addition to this, tax advisors as well as developers of Artificial Intelligence designs aiming to provide effective tax planning schemes should consider whether these schemes are subject to reporting obligations set forth by the Model Mandatory Disclosure Rules implemented by the OECD in 2018³⁴ and Mandatory Disclosure Regime which should be applied by the Member States as of 1 July 2020 for the arrangements carried out as of 25 June 2018³⁵.

Considering the above mentioned, it seems that usage of technologies will not necessarily lead to greater tax compliance. In fact, the actual outcome of these technology trends will highly depend on the relationship tax authorities will build with customers, i.e. taxpayers and their advisors. Considering this, the OECD has suggested that tax authorities should move a step forward and start acting as an intermediary between the state and taxpayers, instead of prioritizing state budget's needs only, they should pay greater attention to the rights and legitimate interests of taxpayers³⁶ and build enhanced relationship with taxpayers³⁷ based on mutual trust, respect and co-operation. The more success tax authorities achieve in this area, the greater chances will be that taxpayers perceive tax authorities as respected and trusted partner and, consequently, tend to use tax technologies in a way that helps them to achieve greater tax compliance.

This proposal of the OECD was announced twelve years ago, in 2007, and since then some countries have taken certain steps towards this new level of tax administration. The most popular way to enhance relationship with taxpayers is horizontal monitoring – when taxpayers share real time tax data with tax authorities, and receive instant advise and consultation of tax authorities regarding unclear tax matters. This can be even used as a measure to ensure that statute of limitations will close with submission of tax return³⁸. Another very effective mean of enhancing relationship with those taxpayers who want to rehabilitate from the shadow is voluntary disclosure programs. Australia, based on this program, collected 127 million AUD of income from avoided taxes in 2015. In exchange for voluntary disclosure, Australia agreed to impose maximum penalty of 10 percent and release disclosed taxpayers from late payment interest as well as further criminal prosecution³⁹. The best example of enhanced relationship between tax authorities and taxpayers by far is Switzerland. Although Swiss tax authorities operate on the modest 1st level of tax administration, they represent all the above-mentioned qualities that enhanced relationship is all about. In short, Swiss tax authorities actually care for their taxpayers. For this reason, 96 percent of Swiss cantons' tax authorities amend tax fillings of taxpayers if, based on their information, taxpayers have reported higher taxable income than they actually should. Switzerland is also the only country where behaviourists found out that

³³ Council Directive (EU) 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market [2016] OJ L 193 Article 6.

³⁴ OECD, 'Model Mandatory Disclosure Rules for CRS Avoidance Arrangements and Opaque Offshore Structures' (Paris: OECD Publishing 2018).

³⁵ Council Directive (EU) 2018/822 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements [2018] OJ L 139 Article 2.

³⁶ OECD, 'Working Paper 3: Overview – The Emerging Direction of The Study' [2007].

³⁷ OECD, 'Working Paper 6: The Enhanced Relationship' [2007].

³⁸ For instance, since 2005 the USA implements Compliance Assurance Process, based on which tax authorities receive and evaluate tax data of taxpayers on real-time basis and all the disputes have to be solved before submitting tax return to the tax authorities. KPMG, 'IRS Extends CAP Program, Modifying Some Rules and Signalling More Significant Changes May Lie Ahead' [2018].

³⁹ OECD, 'Tax Administration 2017. Comparative Information on OECD And Other Advanced and Emerging Economies' (Paris: OECD Publishing 2017) 65. OECD, 'Update on Voluntary Disclosure Programmed. A pathway To Tax Compliance' [2015] 31.

majority of taxpayers is not interested in looking for loopholes and tends to pay taxes voluntarily actually following the substance of tax laws.⁴⁰ Switzerland is a great example that tax technologies are not everything. People pay taxes, they decide whether to comply or avoid, and even if tax technologies make a lot of decisions on behalf of taxpayers in the nearest future, beyond these decisions the ultimate beneficiary will be a human taxpayer. Therefore, long term investment in building friendly relationship and mutual trust, as a counterbalance to technology driven tax administration scenario, is worth to be considered.

Conclusions

Technologies have a multilevel impact on tax compliance. Nowadays, they help taxpayers to eliminate manual, repetitive tasks and, by doing so, accelerate tax compliance procedures. However, technologies can also facilitate tax avoidance by presenting thoroughly structured global tax planning schemes having no economic reasoning. Considering this, the main focus should be placed not upon technologies, but on the users and their motivation. Respectively, tax authorities work hard to provide taxpayers with updated, digital, user-friendly channels for data exchange and communication with the tax authorities. On the other hand, there are still examples where tax authorities show lack of understanding how much these good new measures will actually cost for taxpayers and how they will be comprehended by taxpayers. In order to avoid future enhanced battles between taxpayers and tax authorities each side armed with advanced tax technologies, tax authorities should place greater focus on the OECD suggestion to establish enhanced relationship with taxpayers so that their inner motivation would be oriented towards greater tax compliance rather than smarter tax avoidance.

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⁴⁰ Lars P. Feld, Bruno S. Frey, 'Trust Breeds Trust: How Taxpayers are Treated' [2002] 87-99.

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