

Help, there comes the tax inspector!

If suddenly the tax inspector rings at the door, what should you do. Especially don't panic. It is true that the inspector has extensive powers. But as a tax payer, you do not only have obligations, you also have rights. Which should be respected by the tax authorities. We list what the inspector can/cannot do and what you should do.

What you should do

Keep your papers

You should keep all your papers until the end of the seventh year following the taxable period to which the document relates (e.g. you have issued an invoice on 17 January 2013, this invoice relates to the tax period 2013, it should be kept until 31 December 2020).

You should keep these documents in your office, branch office, professional or private chambers. In principle they can't be kept by your accountant or tax consultant: the tax authorities are however not that strict, they are rather pragmatic.

You should keep all documents necessary to determine your taxable income and submit them to the inspector when asked for. This means that private documents and documents containing trade secrets do not fall under this obligation.

Allow entrance of the inspector in your company

A competent officer, which has his proof of appointment, should be granted entrance. If this is not the case, you are not obliged to give the officer the right to enter. You can also give him formal permission.

Show your bank statements to the tax inspector

This goes for professional bank statements, but partially also for bank statements concerning your private bank accounts, to the extent they relate to foreign bank accounts and to Belgian bank accounts which are occasionally used for professional purposes or in case there are transfers between your professional and private bank account. The bank statements of a fully private bank account should not be submitted.

Answer questions of the tax authorities?

It is the mission of the tax officer to perform a full and correct taxation. Sometimes he does not dispose of all necessary elements. In that case you will receive a request for information. You are obliged to answer: to do so you have a month as of the third day following dispatch.

Certainly the officer can only ask 'tax' questions, which are relevant to determine your tax position.

Are you held as a medical doctor or lawyer to your professional secrecy, you can invoke this under certain circumstances.

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What can the tax inspector not do

Asking to bring documents to his office

The officer can check your books and documents, but he should do so on the spot. This is referred to as 'without displacement', which means that not the books or documents should be displaced, but the officer has to.

Take books or documents

This means that he can not require from you that he can take the documents. An audit can however be very complicated and time consuming, therefore it can be in the interest of both parties to grant the inspector the permission to take the books and documents to his office for further investigation. The inspector can then conduct the audit at his ease, while you are not disturbed by a stranger during your daily activities.

Ring at the door in the middle of the night

Asking permission to enter your house is possible between 5 AM and 9 PM. For professional buildings other rules apply: the inspector has permission to enter during the time you exercise your professional activity. This means that no findings can be made while your business is closed.

Entering your practice while you are seeing a client

Especially for liberal professions (doctors, lawyers, accountants, ...) it goes that tax officers do not have the right to enter your professional chambers when exercising your activity in the presence of your clients or patients.

What the tax inspector can do

Check your computer records

If you keep your accounting on computer, the tax inspector can check your computer. You should present all relevant data on the information carrier (hard disk, cd-rom, usb-stick) to the inspector in a readable and comprehensible form. The inspector should be able to check the reliability of the whole system.

The inspector can oblige you to copy certain data from your computer for him.

Come by without appointment

There is no legal rule obliging the inspector to inform you in advance of his visit. It is however more practical for both parties if you are aware of his visit, therefore an internal instruction of the tax authorities demands the officer to inform you in advance. Only if the nature of the audit requires that it is made unexpectedly (because the tax authorities believe that the tax payer will make documents disappear), the tax payer is not informed in advance.

Open cabinets and drawers

The inspector can during his visit open cabinets and drawers himself in order to check whether relevant document are kept there.

Enter your private home

Next to your professional premises, the inspector can (sometimes) enter your private home. This is off course a far-reaching investigate measure. This cannot be done just like that: the inspector should have preliminary approval of the police tribunal and his superior.

Question your personnel

The inspector can also obtain information from third parties in order to come to the correct taxation. This includes your personnel.

Obtain bank data from your bank

In the past your bank could easily invoke its professional secrecy and refuse to give information to the tax authorities. The bank secret is in the meanwhile eased. The tax authorities can now obtain quite some information from your bank. This is possible when there are indications of fraud, when the tax authorities plan to make a taxation based on indications or when a request for assistance is made by a foreign tax administration.

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