

Tax inspector can now also check data you keep in the cloud

Undoubtedly you know that when you get a visit from the tax inspector, you should give him access to all your documents which are necessary to determine the amount of your taxable income. This includes data you keep digitally on your computer or server. The Program Law of 1 July 2016 added that tax inspectors can also see data you keep externally in the cloud.

The tax inspector can consult documents

If you as a tax payer get the visit of a tax inspector, you should allow him to consult your books and documents, if he asks to do so. It does not matter whether you are subject to individual tax, corporate tax, legal entities tax or non-resident tax. This obligation applies to all tax payers.

Obviously you should not present private documents, but all (professional) books and documents which are necessary to determine your taxable income.

Also VAT inspectors can ask to look into your books, invoices, copies of invoices and other documents or copies thereof.

What about electronic data?

These documents are nowadays often kept by tax payers on a computer or server. Such electronically kept documents can currently be consulted by the tax inspectors.

Meanwhile the technological evolution is however already a step further. The electronic data is no longer (only) kept on the computer on the tax payers's desk. More and more data are kept on a server. And even that server should not be physically located with the tax payer. This can also be done externally. The data can also be kept in the cloud. Moreover, this habit has become the norm.

Also the books and documents kept in the cloud are evidentiary data for tax purposes.

Inspection of the cloud

In order to fit the consulting rights of the tax inspectors with this evolution, the Program Law of 1 July 2016 has amended article 315bis Income Tax Code 1992 - which governs the consulting right - by adding that all in this article mentioned obligations (=keeping and showing documents) also apply when the data asked by the tax authorities are located digitally in Belgium or abroad. In other words the tax inspector can also look into the data in the cloud.

A similar amendment was made to the VAT Code so the VAT inspectors receive the same competences.

From when?

The new measures apply as from 14 July 2016.