



## Smoking is harmful

Tax evasion is illegal, but tax avoidance is not. Where is the line ?

If you want to finance the Belgian treasury by paying absurd amounts of excise duties and VAT on tobacco and petrol, it is easy to avoid paying these taxes. Simply quit smoking and ride a bike. What is illegal is to smuggle cigarettes into the country and attach fake tax seals.

There is one person who may well become the icon of tax evasion in Belgium, and she did not give up smoking. That is Rita Verstraeten, a hairdresser cum callgirl. In the 80ies, she befriended Roger Gosset, a businessman who had made his fortune with St Michel cigarettes. When he died in 1991, he left everything to Rita. To her shock and horror, she discovered that she received about 68 million euro. The horror was for her tax liability. As Rita was not related to Roger, her tax liability was 80 percent on every euro over € 175,000. That meant she would have to pay over € 54,000,000 in inheritance tax.

It was too late for tax avoidance, such as marrying Roger. Rita obviously turned to the bank which managed Roger's investments. Somehow, she came to an understanding with the bank, and declared she had inherited only € 16 million. She dutifully paid about € 12,700,000 in inheritance tax. Everybody was happy ; Rita saved over € 40,000,000 in inheritance tax, and for the bank it was good client relationship management, apart from the € 5 million in commission fees.

Unfortunately, that bank was KB Lux. And at the time, some of its employees were trying to blackmail the bank and they threatened to expose its clients. In 1996, the public prosecutor anonymously received boxes full of copies of bank statements. The taxman put pressure on thousands of bank account holders who had hidden investments and many capitulated. The taxman was willing to come to an arrangement whereby they paid 15 percent tax on the investment income over the last five years, plus a fine of 10 or 20 percent. Some got away with paying a year's worth of interest only. KB Lux is probably the largest and most successful tax amnesty in the history of Belgium.

Unfortunately for Rita, she was found out as well but she was not as lucky. The statute of limitations for inheritance tax is not five but ten years, and the penalty for serious tax evaders is 200 percent. The taxman played it hard, and had Rita locked up for a couple of weeks. In itself that was unusual, but it proved quite effective. She confessed and explained how KB Lux set up all sorts of constructions to help her repatriate the money to Belgium and buy property.

That was only the beginning. The taxman charged the full 200 percent penalty on the inheritance tax Rita had evaded. The final bill came to 122 million €, nearly twice what she inherited. Her investments and properties were frozen. Rita came to an agreement with the taxman and agreed to hand over 20 million euro from her Luxembourg account. That secured her release. She tried to get a favourable arrangement, but the taxman decided to go for everything. The rest of her assets were to be sold off over time. It was only two months ago that the Brussels region finally received a windfall of another € 23,2 million.

The lesson has been salutary for a lot of people.

All banks have learned a lesson. In particular the KB Lux officials. The CEO is a Belgian and he was arrested when visiting his family in Belgium and was charged with money laundering and



setting up fraudulent mechanisms of tax evasion for their clients. That caused an uproar in the Luxembourg banking world as this is not an offence under Luxembourg law. In the meantime, the KB Lux officials are still waiting for their court hearing.

Bank managers have got much more careful. Gone are the days when your bank manager would wipe out all trace of granny's account or allow the family to empty her safe. They will not get caught out again ; their clients are not important enough to lose their reputation or to risk prison. They won't advise their clients to buy bearer shares anymore. However tax efficient they are, they are not cost efficient anymore. And then there are the banking secrecy rules. When the taxman asks them questions about their clients, they only have to answer in cases of serious and organised tax fraud. But if they give answers, their client can hold them liable. Between the devil and the deep blue sea, they recently decided to ask the court for a judgment. If the court obliges them to hand over information to the taxman, which client could hold them liable?

If only the banks had been as honest with her, Rita must be thinking. If she had known what was to come, she would probably have preferred to pay the tax. At least she would have kept something of the fortune she inherited.

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