



When you disagree with the taxman

You know the gnawing feeling when you find the brown envelope in your letterbox. How much do they want this year? Sometimes that feeling turns into shock. They cannot be serious, ... surely that must be a mistake.

Maybe you had been expecting a nasty surprise. You had received a neutral letter from the taxman explaining that he really cannot accept the figures in your tax return. He had given you a month to reply and you had complied. You had looked through your records, and sent him a long explanation about why your figures are correct. And all you got was a letter from the taxman saying that he sticks to his position. The tax assessment follows a couple of weeks or months later ...

You do not want to leave things like that, but how do you go about setting the record straight? You need to file a *reclamation* or *bezwaar*. You cannot simply go to court before you do that.

This means that you must protest in writing: not by fax and not by email. The letter has to be sent to the address of the tax director that is stated on the tax assessment. Make sure that you mention all the relevant references. When in doubt, attach a copy of the tax assessment.

What is important is to set out in detail why you do not agree. You forgot to mention a figure in the tax return, or the taxman overlooked a figure. The taxman was wrong in rejecting your tax return, because all your expenses are business expenses, or that particular type of income is not taxable. Take your time to explain why you disagree.

I would also suggest that you ask to be heard by the tax director. It may help to get your point across.

Finally, don't forget to sign the letter. If you are married, your spouse must sign the letter as well.

Most importantly, don't waste any time. The letter must arrive at the director's office within three months from the date the assessment was sent. That date is stated on the assessment. Preferably send the letter by registered mail. If you have waited until the last day, you can bring it to the tax office and ask for a stamp confirming the date of receipt on a copy of the letter. Don't forget that for the taxman close of business day is 4 o'clock. And if you find the door closed, you can always try and send it by fax. You never know, the taxman may accept it.

Three months is very short, and the government has already announced its intention to extend that period to six months, sometime. But for now, after three months, you are definitively too late. Your complaint will be rejected except in some cases. Sometimes the mistake is so obvious and gross that it would be inequitable not to correct the tax bill. The tax authorities are allowed to reopen the tax file up to three years later for typos, computation errors, or obvious mistakes. Or when you have paid tax twice, in particular in Belgium and in another country.

You can also ask the taxman to reconsider when there are new elements that you could not show before. Not everything is a new element and certainly not a change in the law, changes in the law only work for the future. Case law of the constitutional court or the European Court of Justice may be new information. But if you want to quote new case law, the safe bet is to file your complaint within three months.



If you asked to be heard and meet the taxman, you will get a chance to have a look at your own tax file. It can show some interesting information and you may be surprised to see what information the taxman has.

You may be surprised to see the same tax inspector who has taken the decision to assess the tax in the first place. A couple of years ago, Finance Minister Reynders decided to give the tax officers more responsibility. If they decide to tax, they must now defend their position throughout the whole procedure. Generally they tend to maintain their position. But sometimes, you may come across someone who is more understanding.

The good news is that you do not need to pay the tax you challenge. Of course you need to pay the tax that is due. That is the tax on the income that you declared or on which you have given your agreement. The tax director should let the tax collector know how much that tax is. But it happens that the information does not pass.

The tax director has six months to take a decision. After six months, but not a day earlier, you can take your case to court. That is not always advisable and most plaintiffs wait to see if the director will agree. You never know.

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