

Abstract

FISCAL SUPERVISION OF CORPORATE BODIES THAT ARE NOT LIABLE TO CORPORATION TAX

A corporate tax is a set of contributions that provide more favourable tax arrangements than the corporation tax and applies both to public services and organizations and legal persons governed by private law involved in non-profit making operations or objects. Whereas the direct tax incidence of such tax arrangements is rather limited, a supervision of such associations and organizations aims at identifying taxpayers who unduly benefit from such a favourable system such as, for example, the « false non-profit-making associations» (that would engage in commercial operations). After an examination of the control carried out by the Ministry of Finance in the field of corporate tax, the Belgian Court of Audit issued the following comments and remarks.

The tax yield of corporate bodies

As a corporate tax is made up of a set of separate and not aggregated taxes that are often applicable to other classes of taxpayers, it is impossible to have an accurate assessment in terms of tax proceeds in the present accounting system. Likewise, there is no assessment of the means provided by the Ministry of Finance to collect these taxes. All this stands prevents the Ministry of Finance to seriously consider the issue of tax yield and its control. It is essential for the Ministry of Finance to work out indicators.

The verification of the taxes

The Court of Audit first noted that the Flemish Government decided to outsource the data processing function from the ministry of the Flemish Community without any prior holding of a debate on core activities as requested by the Flemish Parliament, which should have clarified what functions would be eligible for outsourcing.

In general, the audit revealed the lack of a genuine system of consistent and uniform control of these specific taxpayers. The Ministry of Finance should, first of all, work out practices allowing for a complete and updated list of the associations to subject to these specific controls.

The verification of taxpayers domiciled in big towns is carried out by relevant services. In other places, services dealing with personal income tax take care of it. In this case, the control is rather loose. This different way of dealing with things should be changed. Measures should thus be taken quickly to entrust these files to units able to carry out a more uniform control (and adjoin them, for instance, to the future Small and medium-sized enterprises (SME) tax entity as envisaged in the Coperfin project within the scope of the functional programs).

Furthermore, the standards applied to the verification of these taxes are insufficient with regard to the selection of the files and the methods of assessment. The checks with regard to the starting and the ending operating activity, the checks related to the taxation of third parties or the identification of « false non-profit-making associations», as well as the visits on the spot are insufficient. Instructions provided to assessment officers should, in particular, define methods for analyzing annual statements, of which the standardized presentation is laid down by the non-profit-making associations law of May 2, 2002 and define systematic procedures for the detection of « false non-profit-making associations ».

The yield of the countervailing tax levied to offset the inheritance tax

The low yield of the countervailing tax to offset the inheritance tax applied to the SME, when compared with its administrative and social cost, should be a basis for reconsidering the usefulness of keeping such a tax once the lessons of the changes introduced by the law of May 2, 2002 are learned.