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TAXES AND DATA

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1. Introduction

"In a society in which taxes are levied, there are always taxpayers, who attempt to evade paying taxes. It doesn't do to meet evasive or fraudulent (tax return) behaviour with leniency. Such an attitude would do wrong to the many taxpayers, who comply correctly to their obligations. It is then also important that the legislator and administrator develop a system of regulations as such, in which the opportunities for evasion are used as much as possible."

Thus begins the Fraud Plan as was sent earlier this year to the Second Chamber of Parliament. A crucial point of the plan is the expansion of the provision of information. From research it is apparent that the knowledge that the Tax Authorities have information available, which can be used as contra-information, results in many taxpayers making a correct tax return of the various elements of their income. The availability of information seems to be a very effective measure in the prevention of fraud.

What is true of the Tax Authorities, is also valid for other government departments who are charged with the administration of income-dependant regulations. The inter-exchange and comparison of information enlarges the effectiveness.

2. Public interest versus individual interest.

The establishment of information on and about taxpayers forms an essential part of the duties of the Tax Authorities. These activities do not form an objective in themselves, but they are an indispensable measure in the execution of the fiscal legislation.

The administration is steadily increasing in size, as a result of an increase in the number of taxpayers, the greater complexity of laws and the assignment of extra duties to the Tax Authorities. To be able to keep functioning at an optimal level a start has already been made at an early stage on the computerisation of the simple administrative processes. From the start, there has been much attention given to the protection of the personal sphere of the citizen when setting up information systems, especially in view of the particular position of the Tax Authorities.

In the discussion concerning the computerisation of tasks there had to be consideration given to the interests of the individual citizen and the public interest, represented as the interest of the State. These interests do not always have to be incompatible. It is, after all, also in the interest of the citizen that the government, as guardian of the public interest, is able to combat effectively the social evil of fraud and improper use by integrating the various information systems available within the different government agencies. These same systems make it possible to enlarge the service in a cost-saving way and to deal the citizen as an individual 'customer'. This fits into the general aspiration for improvements in quality within the government. Computerisation is also in this respect not an aim in itself, it is a means by which these demands can be met.

3 . Information exchange

In addressing today's topic there are two points of interest: a) the expansion of the provision of information by third parties for the Tax Authorities and b) the provision of information within the government. In the latter there can be a further division into:

- * provision of information by other government bodies to the Tax Authorities
- * provision of information by the Tax Authorities to other government bodies.

On the first point there is already provision of information like that about housing subsidies, information about cars. Yet there are sectors which still have not been utilised. Examples of these include: details from the Ministry of Transport/transport sector, the agricultural board and other supervisory bodies, in particular the police. There are discussions taking place with the government bodies concerned so that the missing sectors will be covered.

As far as the second point is concerned, in a number of cases there is some information provision on a structural basis. Examples are: information about housing subsidies and student grants.

In many areas information is supplied upon request. The information from the tax authorities is extremely useful in combatting benefit frauds. The benefit authorities have also intensified their requests recently. For instance: the comparison of information between the Tax Authorities and the Social Services for the Welfare payment (a form of minimum income).

4 . Current law

Legal limits and safeguards have been established for this form of information provision. There has to be a clear division so that the computerisation of the provision of information by third parties to the Tax Authorities does not in itself adversely affect the citizen's overheads. The crux of the matter is whether or not the legislation makes it possible to ask third parties for information. The answer to this is yes and in accordance with the definitions laid down in the General Law with respect to government taxes (AWR). The Tax Authorities may ask for information, in so far as this could be of importance for the levying of taxes. Third parties are then required to supply the information. With reference to this the Law on the Registration of Personal Data is important. In principle the custodians of files, and therefore also of computers, are not entitled to give their files to third parties. That prohibition is however relaxed when there is a legal obligation, and because this is so, the Tax Authorities can therefore legitimately ask questions provided that they are of importance to the levying of taxes.

5 . Interest and protection

In the Netherlands attention is being given to the provision of information by the Tax Authorities to other parties. Often the term "coupling" is used. This term is, in the strictest sense, incorrect if one is talking of making the comparison between files possible. It does not take place just like that. The AWR law mentioned above includes a pledge of secrecy. This same law however permits the Secretary of State to allow exceptions. There are administrative conditions attached to this. The key is, that a request from another government body will be entertained if the information could be of importance in combatting misuse of government regulations. In particular one could think of subsidy regulations. Many requests are for structural exchange of information.

Each time therefore the pros and cons are weighed up by the Tax Authorities, and the following criteria are considered:

- * the infringement of the fiscal pledge of secrecy;
- * the infringement of the privacy of the taxpayer;
- * the costs for the Tax Authorities;
- * how effective is the fiscal information in the combatting of misuse of government regulations;
- * the interest of combatting fraud with respect to government money.

The Law on the Registration of Personal Data is once again applicable. The Tax Authorities have established a set of regulations for all their files on the basis of this law. The law makes it possible to provide information to other government bodies. This must, however, be registered. The Tax Authorities can therefore, on the basis of both the financial legislature and on the basis of the Law in the Registration of Personal Data, provide information.

I have already mentioned the considerations which are taken into account. It will still be a question of weighing up pros and cons. Combatting fraud must carry a lot of weight in these considerations. Those who ultimately benefit are, after all, the Dutch citizen and taxpayer.

6. Acknowledgement

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7. References

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