

Report to the federal Parliament:

Fighting fraud in the construction sector, the meat industry and among private security companies



In its report to the Federal Parliament, the Belgian Court of Audit examined when and how the Ministry of Finance has carried out the legal provisions on the withholding tax on invoices and the joint liability related to tax debts in the construction sector, the meat industry and among private security companies. These provisions aim to fight against fraudulent practices by workforce providers who do not comply with their tax obligations and escape sanctions by quickly changing names or vanishing in the air.

Each principal entrusting works to a contractor who has tax debts shall be deemed jointly liable for paying the said tax debts if he fails to apply the withholding tax on invoices. It goes likewise for the contractor who works with a subcontractor who has tax debts. Besides, since the introduction of the subsidiary liability, the Ministry of Finance is entitled to claim arrears from every actor of the subcontractor chain, i.e. the actor concerned will have to bear the tax debts that have not entirely been cleared through the joint liability mechanism.

The Belgian Court of Audit has examined how the Ministry of Finance collects the withholding tax, sees to it that this tax is duly applied and implements the principles of joint and subsidiary liabilities.

Although new procedures and ways of implementations are being designed in order to ease the management of the withholding tax collection, a number of shortcomings have been highlighted. For instance, some withholding taxes (withholding tax impossible to charge to a given (sub)contractor, positive balance under 12.5 euros per tax payer and per withholding tax after allocating all debts) are considered as non-recurring income whereas they should be reimbursed to the tax payer.

Moreover, controls on the obligation of withholding tax are hardly carried out. The General Administration of Tax Collection and Recovery has not taken any initiative in this matter and the controls by the General Administration of Taxation are rather intricate and hardly

supervised. In addition, the actors who do not apply the withholding tax provided by law rarely incur sanctions.

On the other hand, the Ministry of Finance fails to enforce the joint liability principle. The Court has noted that the procedures are not systematically implemented. For example, only one out of sixteen tax recovery centres interviewed has implemented this mechanism repeatedly. As for the subsidiary liability, it appears on the basis of the information gathered that it has never been enforced.

The Court recommends to implement these mechanisms and, to this end, to provide the controllers with instructions as well as specific tools and training courses. It also advises to build synergies with the National Social Security Office's services that are responsible for implementing the joint liability for social debts.