



OMBUDSMAN

SINT MAARTEN

Notice of Termination Investigation

(Article 16 and 17 sub 3 National Ordinance Ombudsman)

Ministry of Finance
Department: Tax Inspectorate
Attention: Mr. G. Saturnilia
Acting Department Head
Philipsburg
Sint Maarten

Philipsburg, August 6, 2014

Your ref.no.:
Our ref.no.:OM-OBM 0286/2014

Your letter of:
Complaint no.: 2014/00142

Dear Mr. Saturnilia,

This letter is to inform you that the Ombudsman refrains from further investigation of abovementioned complaint (.....) in accordance with the National Ordinance Ombudsman ("*Landsverordening Ombudsman Ab 2010 GT no.20*").

Summary of Complaint:

Complainant filed an objection with the Tax Inspector's Department on September 5, 2013 regarding the assessment of profit tax of the years 2010 to 2012 .
To date of filing this complaint with the Bureau Ombudsman no response has been given to the objection.

Findings:

Complainant filed an objection with the Tax Inspectorate on September 5, 2013 regarding the assessment of profit tax of the years 2010 to 2012. After no response was received by Complainant, a complaint was filed with the Bureau Ombudsman on February 6, 2014.

The Ombudsman sent a Notification of Complaint (NOC) on February 27, 2014 to the Acting Head of the Tax Inspectorate inquiring the following:

- Are you familiar with the complaint and can it be resolved on short term through intervention of the Ombudsman;
- Why has Complainant not received a notification of receipt of the objection letter submitted on September 5, 2013, pursuant article 29 of the General Ordinance for Taxes;
- Provide follow up on the status of the investigation into the objection of Complainant.



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The response deadline for the NOC was March 27, 2014. On March 19, 2014 a reminder to respond to the NOC was sent to the Acting Head of the Tax Inspectorate. In an email dated March 19, 2014 the Acting Head responded by requesting a meeting to discuss the following points:

- The current complaints that are pending for the Tax Administration.
- The nature of the complaints that the Tax Administration is receiving.
- In relation to point 2, the procedure.

A meeting was held on March 27, 2014 on the request of the Acting Department to discuss what is expected of the Department pertaining to the complaints filed with the Ombudsman. The Acting Department Head was explained that the Bureau Ombudsman expects a prompt response from the Department on request from the Ombudsman. Furthermore, the Acting Department Head was informed that follow up is required regarding the continuation of the case after intervention by the Bureau Ombudsman, as well as developments concerning the complaints against the Department.

On May 2, 2014 Complainant informs the Bureau Ombudsman that the complaint has been processed and finalized satisfactorily by the Tax Inspectorate and that no further investigation is necessary.

Legal Basis

Pursuant to article 19 of the National Ordinance Ombudsman (AB 2010, GT no. 20) the Ombudsman is authorized to request from government bodies, civil servants, the complainant, civil servants as experts or witnesses, all information and or documents pertaining to the investigation.

Article 29 sub 1 of the General Ordinance for Taxes (“*Algemene Landsverordening Landsbelastingen*” (AB 2013, GT no. 416); hereinafter The Ordinance) provides that an objection can be filed against a tax assessment within two months of the date of the assessment notice (...).

The Tax Inspector signs the objection with the date receipt and provides objector with a receipt of the objection.

Article 30 sub 1, 2 and 3 of the Ordinance provides that the Tax Inspector is to furnish objector with a ruling on the objection within nine (9) months to the date of receipt of the objection. Not furnishing the objector with a motivated decision is also considered a ruling. If the Tax Inspector is in need of extra time, the extension on the decision is to be made known to the objector in a motivated letter. The Minister is to determine if an extension will be given



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and the term of the extension. The Tax Inspector is required to, if feasible, provide a decision within the legal period.

Article 31 of the Ordinance provides that an objector can file an appeal against a decision made by the Tax Inspector in the case of an objection, with the Council of appeals in Tax cases (article 2 sect. 2 sub F of the Ordinance) within two (2) months (a).

In case an extension was given to the Tax Inspector to provide a decision on the objection, objector can appeal the decision within twelve (12) months (b):

- a. Counting from the date that the nine (9) months the Tax Inspector has to rule on the objection has expired;
- b. Counting from the time that the extension given by the Minister for the Tax Inspector to decide on the objection has expired.

Conclusion:

On September 5, 2013 Complainant submitted an objection to the Tax Inspectorate. Complainant received no response to her objection. On February 6, 2014 Complainant filed a complaint with the Bureau Ombudsman. After intervention of the Bureau Ombudsman on May 2, 2014 Complainant informs the Bureau Ombudsman that the matter has been satisfactorily handled and finalized by the Tax Inspectorate.

Considering the statement of the Complainant, the Ombudsman refrains from further investigation of the complaint and the file will be closed.

The Ombudsman notes that the response and or decision to the objection of the Complainant has been handled within the nine (9) months provided for by law. Explaining the citizen at time of filing an objection accordingly is however required, in particular indication regarding the timeframe the citizen may expect a decision in the case.

Sincerely,

Dr.R. (Nilda) J.A. Arduin
Ombudsman