



## Newsflash

# More flexibility when filing administrative appeals

On 3 August 2016, a law was adopted easing the requirements when filing an admissible administrative appeal. According to the Belgian Income Tax Code, an administrative appeal against a federal tax assessment in direct taxes must be filed with the 'general advisor' ('adviseur-generaal'/'directeur') of the local tax administration responsible for assessing income taxes, within six months after the assessment note was sent to the taxpayer.

Since 2005, the Belgian Income Tax Code already allows the administrative appeal to remain admissible even when the taxpayer erroneously sends it to the general advisor of another jurisdiction. The general advisor incorrectly receiving the administrative appeal has the legal obligation to forward it to the competent general advisor and to inform the taxpayer thereof. The appeal reception date with the first general advisor still stands in that case.

The Law of 3 August 2016 on the filing of an administrative appeal introduces a new simplification. The administrative appeal will now be admissible if it is sent to "an official" within the tax administration competent for either the application of income taxes or the recovery of taxes. The date on which said official receives the appeal is regarded as the date of administrative appeal. The public servant erroneously receiving the

administrative appeal has the legal obligation to forward the appeal to the competent general advisor and to inform the taxpayer thereof. Therefore, in general, any administrative appeal sent to the tax administration will now be considered admissible.

The Law of 3 August 2016 did not contain any provision specifying the new article's entry into force date, meaning that it is effective as of 21 August 2016, i.e. ten days after publication in the Official Journal.

Earlier this year, an administrative Circular confirmed case law from the Belgian Supreme Court (5 June 2014) allowing an administrative appeal to be admissible even when it is not signed by the taxpayer, as long as there is no doubt that the taxpayer filed the appeal. Furthermore, the same administrative Circular allows an administrative appeal to be validly filed through fax or e-mail (Circular AAFisc Nr. 5/2016 (nr. Ci. 704.063) of 3 February 2016).

Many would welcome the legislative and administrative trend of attaching less importance to formal requirements that may constitute a burden between taxpayers and their rights to dispute (incorrect) tax assessments.

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