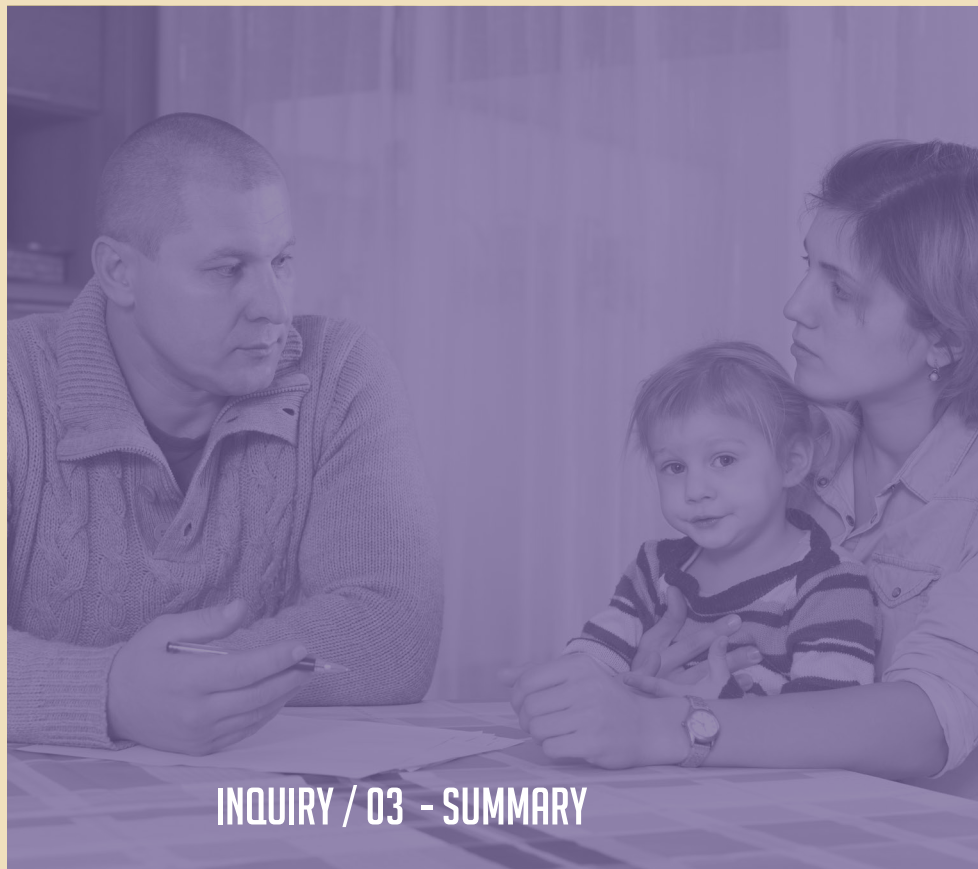


the federal **Ombudsman**



INQUIRY / 03 - SUMMARY

TAX DEBTS

THE RECOVER STRATEGY OF THE FPS FINANCE



INQUIRY

Each year, the Federal Ombudsman receives some 200 complaints from people about the manner in which the FPS Finance recovers their tax debts: personal income tax and, to a lesser extent, property tax.

Most citizens pay their taxes on time. However, a number of citizens are quite willing to pay their taxes but are unable to do so by the due date. Complaints from people experiencing payment difficulties raise the question whether the administration's recovery strategy is always the most appropriate one.

It is the General Administration of Tax Collection and Recovery (GATCR) within the FPS Finance that has been given the crucial task of collecting and recovering taxes, a prerequisite if the State is to function properly. In 2017, the GATCR prosecuted 191,144 cases indirectly (wage garnishments, attachment by garnishment) and handed 135,374 files over to judicial officers. Like the other federal public services, the GATCR is operating in a difficult context: budget constraints, a reduction in staff, digital divide, performance-related challenges...

The complaints brought a number of recurring problems to light that merited a more in-depth investigation. The Federal Ombudsman conducted an inquiry into the main aspects of the recovery strategy: the payment plan procedures, the means tax collectors and judicial officers use to ensure payment of debts and the administration's accessibility and communication.

The inquiry focused on three topics:

1. Do the administrative procedures take adequate account of the real financial capacity of taxpayers experiencing payment difficulties?
2. Could certain costs be avoided, in the interest of both the taxpayers and the administration itself?
3. Is the administration's communication suitable for people experiencing payment difficulties?

The main findings of the inquiry have been summarised here.

All in all, the Federal Ombudsman made 20 recommendations to the GATCR of the FPS Finance.



PAYMENT PLANS

In principle, the General Administration of Tax Collection and Recovery (GATCR) grants payment plans with a term based on the assessment of a taxpayer's repayment capacity. Payment plans cannot exceed 12 months. At first sight, this seems an appropriate way to deal with people who have problems paying their taxes. The majority is in fact able to settle its debt within twelve months. However, our inquiry has shown that these procedures are unsuitable for certain taxpayers and make their financial situation even worse.

Didier had a debt of € 870 and applied for a payment plan of € 75 a month which was refused. He then offered to pay € 110 a month which would allow him to clear his debt within eight months. Without examining his actual available monthly budget, the Infocenter of the FPS Finance also turned down his second proposal. Didier earns € 1,537 a month. Based on a flat-rate calculation of his payment capacity, Didier was made settle his debt in four monthly instalments of € 237.

The inquiry identified three key findings:

1. The administrative procedures do not take sufficient account of taxpayers' real financial capacity. Their repayment capacity is calculated on a flat-rate basis, without taking account of their actual available budget.
2. The way the administrative instructions are currently formulated seems to limit the particular circumstances to obtain a payment plan over a longer period of time to cases where a taxpayer is faced with high medical expenses. In practice though, tax

collectors do not apply these particular circumstances evenly across the board. Some grant an extended plan in the case of illness or redundancy only while others also take unavoidable financial commitments like rent, a mortgage or maintenance into account.

3. For certain categories of taxpayers such as blue-collar workers, part-time workers, temps and people on long-term incapacity benefits, the level of payroll tax that is withheld is systematically too low. This means that they end up with a tax liability year after year which increases their risk of over-indebtedness.

The Federal Ombudsman recommends that the GATCR:

- takes account, in an objective manner, of a taxpayer's actual available budget when calculating his monthly repayment capacity;
- specifies clearly that special circumstances are not purely limited to unforeseen medical expenses and that also other situations can be taken into account;
- provides for the possibility of combining paying more payroll tax with an extended payment plan;
- encourages the intervention of the Tax Conciliation Service and accredited debt mediation services in the most complex files.



PROSECUTIONS

- Prosecutions by the General Administration of Tax Collection and Recovery (GATCR)

Tax collectors' performance targets lead them to apply the administrative instructions too strictly at times.

Simone is 88 years old. She had to pay € 18,000 in tax because the international institution that pays her pension does not deduct enough payroll tax. She made an error in the bank account number and ended up paying the money into the account of another FPS Finance department. Transferring the money internally takes time. As the collector had not received anything two months after the debt became due, he threatened Simone that he would pass on her file to a judicial officer. Petrified, Simone forked out another € 18,000.

The inquiry inter alia brought to light that:

1. Prosecutions by the GATCR are not always necessary (in particular, when the debt is almost settled or when payment is imminent). At times, they are disproportionate or prejudicial because they are launched simultaneously (with the bank and the employer).
2. The GATCR sometimes claims amounts that leave people with less than the social integration income to live on in spite of the fact that this is regarded to be the minimum if people are to lead a dignified existence.
3. In cases where a payment plan is not respected, some tax collectors will terminate it immediately without giving the

persons concerned an opportunity to explain themselves or to regularize the situation.

- Prosecution by judicial officers

Some measures make the situation of people facing financial problems even worse. In the absence of rules of conduct, judicial officers cannot be expressly encouraged to limit the costs of prosecution.

Ann failed to pay a € 255 tax debt. The judicial officer sent her a first warning, costing € 153. Ann paid the tax but not the judicial officer's fees. The judicial officer launched a seizure procedure, adding another € 255 to the bill. Ann paid € 300, with the result that she only owed € 78. The judicial officer pursued the procedure, resulting in another € 213 in costs. In less than three months, the judicial officer's fees amounted to € 591.

The inquiry brought to light that:

1. A judicial officer's first intervention (final demand and notice to pay) costs between € 150 and € 400, which significantly compounds the debt. The Walloon and Flemish tax administrations compel their judicial officers to first send out a payment reminder, which costs about € 20, before any further steps are taken. They have found that a significant number of taxpayers settle their debt on receipt of this reminder.
2. The GATCR does not have the tools to supervise judicial officers. As the cost of an intervention by a judicial officer to the taxpayer does not enter into the equation, there is no incentive to keep prosecutions to a minimum.

The Federal Ombudsman recommends that the GATCR:

- draws up a code of good administrative behaviour when it comes to the recovery of tax debts;
- compels judicial officers to first send out a payment reminder before taking any further steps;
- puts a mechanism in place to monitor, assess and sanction judicial officers and to include the average cost of recovery to citizens in their assessment criteria.



ACCESSIBILITY AND COMMUNICATION

The way the GATCR is organised complicates contact with citizens and does not guarantee them proper access to its services. Both the accessibility to and the communication by the GATCR for/with citizens experiencing problems paying their tax debt must be improved upon.

The inquiry identified three findings:

1. Telephone access to the Contact Center of the FPS Finance leaves a lot to be desired while the Infocenters, the first points of contact for anyone looking for a payment plan, cannot be contacted by phone. The administration's preferred communication channels do not cater for people who have problems reading and writing or who do not have any digital skills.
2. The GATCR takes a selective approach when it comes to spontaneously providing people facing financial problems with information about the possible solutions. On the other hand, it will often repeatedly ask for the same information, which discourages taxpayers and especially the most vulnerable ones.
3. When a payment plan is refused, the GATCR does not ask taxpayers to contact them directly. The details of the contact person are not listed on the letters of refusal.

The Federal Ombudsman recommends that the GATCR:

- enhances telephone access to the FPS Finance;
- fosters direct, personal and adequate contact with citizens experiencing payment difficulties;
- provides assistance with the administrative steps at the contact centres and makes its officers more aware of poverty and social exclusion;
- increases awareness of all the existing procedures by insisting on finding solutions;
- avoids repeated requests for the same information.

The inquiry was closed on 11 October 2018.

The complete inquiry report is available in:

- French on www.mediateurfederal.be/fr/rapports
- Dutch on www.federaalombudsman.be/nl/biblio



the federal Ombudsman

Rue de Louvain 48 box 6 Leuvenseweg
1000 Brussels

T. 0800 99 962

T. +32 2 289 27 27

E. contact@federalombudsman.be

www.federalombudsman.be