



General Audit Chamber  
Algemene Rekenkamer



Audit into the process of  
**EX OFFICIO TAX  
ASSESSMENTS**

**APRIL 2023**



*This document is an English translation of the original Dutch language report entitled: "Audit naar het proces van ambtshalve belasting aanslagen". In the event of textual contradictions or any other differences, the original Dutch text prevails.*

**April 2023**

General Audit Chamber, Juancho Yrausquin Blvd #10, unit 4 & 5

## FOREWORD

You are reading a report that details our investigation into how ex officio tax assessments are determined. When a business or individual fails to file their tax return, the Tax Administration issues an ex officio assessment. Depending on the tax type, the ex officio assessment is calculated using a reasonable estimate of the individual's income, turnover, profit, and other related factors. However, this estimate must meet the condition of reasonableness.

Our investigation aimed to determine whether this condition is being met, how much information is available regarding ex officio tax assessments, and the effectiveness of adopting an ex officio assessment. While ex officio assessments are a powerful tool for enforcing compliance and collecting taxes, they raise important questions regarding fairness, proportionality, and transparency.

In the regular process, the tax authority carries the burden of proof. However, in ex officio assessments, the burden of proof is reversed, and the taxpayer must prove the assessment's accuracy. For taxpayers who receive an ex officio tax assessment, including a surcharge and fine, this can be a confusing and stressful experience, particularly if the amount due is high or they cannot pay. Additionally, taxpayers may be unfamiliar with the process, which can cause feelings of anxiety, guilt, and shame, potentially increasing the risk of non-compliance and distrust in the Tax Administration.

This report aims to identify the risks inherent in the ex officio assessment process and make recommendations that benefit both the taxpayer and the Tax Administration. We thank the Ministry of Finance and the Tax Administration for cooperating during our investigation.

## CONTENTS

FOREWORD .....	
SUMMARY.....	1
RECOMMENDATIONS.....	2
1. THE AUDIT .....	3
1.1 The basis .....	3
1.2 Audit Objective .....	3
1.3 Audit Questions.....	3
1.4 Reading Guide .....	3
2. THE TAX ADMINISTRATION.....	4
2.1 What is the Tax Administration .....	4
2.2 Core Values of the Tax Administration .....	4
2.3 What is an ex officio assessment? .....	4
3. FINDINGS .....	5
3.1 The process in practice.....	5
3.2 Individual taxpayers .....	5
3.3 Our findings: individual taxpayers.....	5
3.4 Business Taxpayers .....	7
3.5 Findings: business taxpayers.....	7
3.6 Conclusion.....	8
4. NUDGES: STIMULATING COMPLIANCE .....	9
4.1 What is a nudge?.....	9
4.2 The benefit of nudges .....	9
4.3 Examples of nudges.....	9
5. OUR EPILOGUE .....	10

## SUMMARY

The government collects taxes to cover its expenses. When taxpayers fail to file tax returns, the tax authorities issue an *ex officio* tax assessment. The tax authority then makes an estimate of the amount of tax due.

There is no internal review of the assessment by anyone other than the person who made the assessment. A determination of whether the assessment is reasonable is not performed regularly.

There is insufficient internal control of the process for determining (ex officio) tax assessments. For example, no information is available from the tax authority about the volume of ex officio tax assessments (number and value). The effectiveness of determining ex officio tax assessments is not evaluated internally.

It is our conclusion that in the current situation, managers cannot determine whether the process of imposing ex officio assessments is efficient and whether corrective action is needed. This also means that no well-considered (additional) policy can be developed to improve compliance, such that less capacity is needed to issue ex officio assessments. Similarly, no information can be compiled to enable the minister to give an account to Parliament. One example is the absence of information in the prescribed Summary Template Statement 12 of the Financial Statements of the Government of St. Maarten (assessments imposed in the fiscal year and previous fiscal years).

In answer to our audit questions, we have determined that the Tax Administration uses reminder notices and ex officio assessments to persuade taxpayers to file returns. This is done by issuing an increased sum (surcharge) as a form of 'pressure' to compel taxpayers to file returns.

The Tax Administration acts based on unwritten guidelines dating back to the era of the Netherlands Antilles. A draft document explains, among other things, the ex officio assessment process; however, this document has not been adopted, and staff within the Tax Administration are not necessarily familiar with it. In answer to the question of whether equal treatment is guaranteed, the answer is no. Too many risks exist, allowing for the possibility of arbitrary practices.

The Tax Administration does not have reliable information on the number of ex officio assessments issued each year and the effectiveness of those assessments. The reasons for this are that a. the tax files are corrupted and need to be first cleansed, b. a lack of personnel, and c. the tax system cannot produce the data. We recommend adjusting the internal control design to make reliable (accurate and complete) information available. We recommend further detailing this concept in a work instruction to render reasonable estimation objectives.

On December 22, 2020, St. Maarten and the Netherlands signed a mutual arrangement to implement the Country Package St. Maarten. The Country Package includes a provision for determining, based on existing and/or additional research, whether and in which manner to optimize and modernize the Tax Administration to the point that tax collection can occur effectively and efficiently. We hope implementing the Country Package will produce a Tax Administration that will sustainably achieve its mission and objectives.

## RECOMMENDATIONS

Considering our findings, we recommend the following to the Minister of Finance:

1. Based on the information requirements, ensure the adequate design of internal controls (the AO/IC);
2. Assess whether the draft description of the processes is still current and formally adopt the description;<sup>1</sup>
3. Issue work instructions for determining a reasonable estimate (individual taxpayer);
4. Review the outcome of the estimate of the 'reference amount' by an employee other than the one who performed the assessment and make this internal review transparent (individual taxpayer);
5. Allow the assessment to be determined by the Section Head of Assessment (individual taxpayer);
6. Have the tax assessment registered in the computerized tax system by someone other than those involved in the estimation of the 'reference amount' and the determination of the assessment (individual taxpayer);
7. Incorporate into the process description an investigation into why taxpayers (individual and business) repeatedly fail to file a return;
8. Proactively investigate why corporate (business) taxpayers repeatedly fail to file returns;
9. Engage an external expert to investigate the sustainability of the current tax system and whether the applications work reliably, then consider whether there is a reason to modify or replace the tax system (application);
10. Require users of the tax system to change their passwords regularly;
11. Establish an interface with the Receiver Office;
12. Periodically report to the Minister of Finance on the execution and effectiveness of the ex officio tax assessments measure.

---

<sup>1</sup> Ministry of Finance Tax Administration, Inspectorate of Taxes, Process Description Manual, version 10-2011

## 1. THE AUDIT

In Chapter 1, we explain our audit methodology. We describe the basis, our objective, and the main and sub-questions we are addressing. Finally, we outline our audit framework and the topics covered in each chapter.

### 1.1 The basis

This audit is a performance audit. Our authority to conduct a performance audit of the process concerning the determination of ex officio tax assessments is defined in Article 30, paragraph one, of the [National Ordinance General Audit Chamber](#).

### 1.2 Audit Objective

The objective is to examine the effectiveness of the ex officio assessment. Specifically, we explain the Tax Administration's core values, analyze the policies used, the potential risks in the process, and how the policies' effectiveness is measured. Our aim is to make recommendations for improvements to the process. In doing so, we strive to add value with respect to transparency, integrity, and equal treatment of taxpayers.

### 1.3 Audit Questions

In this report, we answer the following primary questions:

1. What does the Tax Administration do to ensure that tax returns are filed?
2. What is the Tax Administration's policy for taxpayers without filed returns?
3. How is the effectiveness of the policy measured in practice?
4. How does the Tax Administration ensure equal treatment?

Sub-questions:

- What is the Tax Administration's objective?
- What are the Tax Administration's core values?
- What is an ex officio tax assessment?
- What is the legal basis for imposing an ex officio tax assessment?
- Who are the people involved in the ex officio tax assessment process?
- How does the ex officio tax assessment process operate in practice?
- What are the risks in the process?
- Is the volume and effectiveness of ex officio tax assessments reported, and how is it reported?

### 1.4 Reading Guide

In Chapter 2, we discuss the underlying principles. We cover the Tax Administration's operations, its core values, and what an ex officio assessment is. We also analyze the legal framework and reveal the key players within the process.

We present our findings on the ex officio tax assessment process in practice in Chapter 3. Here we analyze the effectiveness of the instruments for exerting pressure on a taxpayer to file a tax return. We conclude the chapter with an inventory of risks and present our findings related to our attempt to use a sample to examine the compliance of the policy in practice.

Chapter 4 explores the concept of tax "nudges," which encourage voluntary tax compliance.

We conclude this report with a response from the Minister of Finance, followed by our epilogue.

## 2. THE TAX ADMINISTRATION

### 2.1 What is the Tax Administration

The Tax Administration's mission statement reads: *The Sint Maarten Tax Administration will implement the laws and regulations for the levying, collection, and auditing of taxes with the aim of attaining stable and growing tax revenues in an extremely efficient, effective, customer-oriented, and honest manner.*

The Tax Administration's objectives include promoting and increasing taxpayer compliance, ensuring an honest, professional, reliable, business-oriented, and customer-focused Tax Administration, and fostering stakeholder satisfaction.<sup>2</sup> The government imposes taxes to have adequate financial resources to undertake expenditures. A distinction is made between taxation by assessment<sup>3</sup>, remittance, and payment on declaration<sup>4</sup>. Income tax<sup>5</sup>, profit tax<sup>6</sup>, and transfer tax are examples of taxation by assessment. Examples of taxation by declaration are payroll tax<sup>7</sup> and business turnover tax (BBO or TOT).<sup>8</sup>

### 2.2 Core Values of the Tax Administration

Based on the Tax Administration's mission, it implements laws and regulations for assessing, collecting, and inspecting taxes. Similarly, the Administration pursues a stable and expanding tax income through an efficient, effective, customer-oriented, honest working method.<sup>9</sup> Objectives of the Tax Administration include:<sup>10</sup>

- To ensure an honest, professional, and trustworthy Tax Administration;
- Promoting and improving taxpayer compliance;
- Ensuring a more business-like and customer-oriented Tax Administration;
- Collaboration with other government agencies.

For the purposes of this review, we specifically analyzed the ex officio assessment process.

### 2.3 What is an ex officio assessment?

An Inspector may determine the assessment *ex officio* (automatically) when a return is the tax liability arises.<sup>11</sup> The amount in the ex officio assessment is calculated based on historical data, with an estimate of income. The tax application system calculates a fine for failure to file a return.<sup>12</sup>

#### 2.3.1 Estimate of the tax base for the assessment

One crucial issue is the estimation of income. The estimate ('the reference amount') must be reasonably determined. After all, the 'reference amount' is the basis for the ex officio assessment. Under the Tax Administration's own core values, assessments should be determined correctly, ensuring equal treatment for all taxpayers. Therefore, this means that the Tax Administration may not apply rules other than those mentioned in the tax law. That said, the Tax Administration has discretion in determining the 'reference amount'<sup>13</sup>; while the estimation must be reasonable, the Inspector's obligation to investigate is limited.<sup>14</sup> Estimating income is not always easy. The Tax Administration believes that if the estimate is low (conservative), it is likely that the taxpayer will underpay taxes. In doing so, the taxpayer may actually benefit from not filing the required return.<sup>15</sup> However, failure to file a tax return may result in a jail sentence and/or substantial fines.<sup>16</sup> On the other hand, a high assessment can be "harsh"; for example, in cases where the income proves to be lower and the taxpayer lacks sufficient financial resources. The rationale for a high assessment stems from the Tax Administration wanting the return to be filed. After all, filing a tax return is required by law.<sup>17</sup> In the next chapter, we discuss our findings in practice.

<sup>2</sup> <http://www.sintmaartengov.org/government/FIN/Pages/Tax-Administration.aspx>

<sup>3</sup> National Ordinance containing general provisions of formal tax law. Section 2, AB 2013, GT no. 416.

<sup>4</sup> National Ordinance containing general provisions of formal tax law. Section 3, AB 2013, GT no. 416.

<sup>5</sup> National Income Tax Ordinance, AB 2010, GT no. 787.

<sup>6</sup> National Profit Tax Ordinance, AB 2013, GT no. 674.

<sup>7</sup> National Ordinance on Payroll Tax AB 2013, GT no. 78.

<sup>8</sup> National Ordinance on Business Turnover Tax, AB 2010, no. 30.

<sup>9</sup> <http://www.sintmaartengov.org/government/FIN/Pages/Tax-Administration.aspx>

<sup>10</sup> Idem.

<sup>11</sup> Article 10 of the General National Tax Ordinance.

<sup>12</sup> Chapter 3, Chapter 1 of the General National Tax Ordinance.

<sup>13</sup> The Tax Administration's estimate of income for purposes of determining the ex officio tax assessment.

<sup>14</sup> Interview report with the Head of the Tax Administration dated February 24, 2022.

<sup>15</sup> Interview report with the Head of the Tax Administration dated February 24, 2022.

<sup>16</sup> Article 49 of the General National Tax Ordinance.

<sup>17</sup> Institute for Employee Benefit Schemes (UWV) 2021, "Ability to act and basic skills": the ability to properly use all government services or fulfill all associated duties.



## 3. FINDINGS

### 3.1 The process in practice

This chapter reports our findings on the processes related to the ex officio assessment. A distinction is made between "individuals" and "businesses". The procedure for determining ex officio tax assessments is not described in a formally established process description<sup>18</sup>, and no written policy exists. However, according to the Head of the Tax Administration, the work method is familiar to those involved, and the rules of the National Ordinance on General Provisions of Formal Tax Law (hereinafter Lv FB) are followed. Inquiries to the Ministry of Finance revealed that a draft description of the procedure does exist.<sup>19</sup>

### 3.2 Individual taxpayers

In practice, the process begins when the work lists are distributed among employees. The more complex returns are assigned to the more experienced assessors. The worklists are completed per declaration at the discretion of the assessor. During the assessment of the declaration, one of the checks is to ensure that no returns from previous years are missing. If this is the case, a reminder is sent with a request to file a declaration for the missing year. Each year after the expiration date of the obligation to file a tax return, the reminders are issued in batches. If no response is received, an assessment is issued ex officio. If the taxpayer does not file a return, the Tax Administration issues ex officio tax assessments. The underlying principle is legal compliance and the individual taxpayer's responsibility to file.

When determining the ex officio assessment, a fine may be imposed<sup>20</sup>, and a surcharge is applied to the estimated amount payable. For private individuals, the tax returns from three previous years are considered, including other information available at the Tax Administration. The ex officio assessment can be increased by 10% depending on the situation. This surcharge is intended to pressure the taxpayer to submit a tax return.

However, once a taxpayer settles the amount on the assessment, the fiscal year in question is not closed. Subsequent tax assessments are still possible. This is because a return has still not been filed.

### 3.3 Our findings: individual taxpayers

#### *I. An established written policy governing the ex officio assessment process does not exist.*

Although there is a draft document that, among other things, identifies the process, it has not been adopted. There are unwritten guidelines carried over from the era of the Netherlands Antilles.

The lack of established written policies comes with risks:

1. Lack of standardization:<sup>21</sup> without written policies, the Tax Administration may lack a standard procedure for specific processes, resulting in multiple approaches to dealing with the same situation.
2. Inconsistency:<sup>22</sup> employees may interpret responsibilities and procedures differently, leading to inconsistencies in the approach to work.
3. Lack of Transparency: employees may be uncertain about what is expected.
4. Lack of responsibility: without written policies, it can be difficult to determine who is responsible for specific tasks, leading to delays or errors.
5. Training difficulty: new employees may find it difficult to understand their responsibilities and perform their tasks correctly, leading to errors and delays.

#### *II. Risk of arbitrary action*

We note that the outcome of the estimation process and the determination of the assessment is not checked for reasonableness by another employee. Nor is the determination of the surcharge reviewed. No assurances are provided that the Tax Administration follows internal unwritten guidelines. An employee could process a taxpayer's case differently. There are no assurances that employees will not deviate from the method of

<sup>18</sup> Interview report with the Head of the Tax Administration dated February 24, 2022.

<sup>19</sup> Ministry of Finance Tax Administration, Inspectorate of Taxes, Process Description Manual, version 10-2011

<sup>20</sup> Chapter III, section 1 of the General National Tax Ordinance.

<sup>21</sup> Lack of standardization: lack of established rules, policies, and guidelines. Lack of standardization can lead to inconsistencies.

<sup>22</sup> Inconsistencies: differences or variations.

calculating a reference amount or the surcharge specified in that calculation. An employee may be challenged on an ex officio assessment. In practice, this happens whenever there is an objection.<sup>23</sup> No written and established process exists to prevent discretionary action.

### *III. There are no tax inspectors currently employed*

The Tax Administration has four FTEs available for Tax Inspectors. Recruiting and retaining Inspectors appears to be a major challenge. The Tax Inspector is responsible for reviewing and investigating tax returns and ensuring compliance with tax laws. Inspectors also provide assistance and guidance. The Tax Administration had no Inspectors on staff during our audit except for one Acting Inspector. Employees are authorized to perform the work of the Inspector.

### *IV. Liability and Accountability*

There are no systematic internal records of how and when an employee is challenged on an ex officio assessment. Consequently, we cannot determine the frequency with which an ex officio assessment is established, either unusually high or low. As part of the regular assessment cycle, employees can be called to account for incorrectly imposed ex officio assessments.

### *V. Effectiveness of the 'surcharge measure'*

When setting the reference amount, a surcharge is added. As a rule, this markup amounts to 10% for individuals and 25% for companies and is intended to act as a form of pressure for the taxpayer to subsequently file a tax return.

Statistics that measure the effectiveness of the surcharge are not available. Therefore, it is impossible to establish the effectiveness of the measure.

The Tax Administration emphasizes the legal obligation to file a tax return. For the person filing the return, receiving an ex officio tax assessment, including surcharge and fine, may be confusing and stressful, especially if the amount due is significant or the individual cannot pay. Similarly, individuals may not be familiar with the process. The result can cause feelings of anxiety, guilt, and shame.

When a surcharge is added to a tax assessment, it increases the risk of non-compliance, as the taxpayer may consider the amount owed excessive or unjustified. The result can be litigation and challenges to the tax assessment, which can be time-consuming and costly for the taxpayer and the Tax Administration.

The 'surcharge measure' can potentially create a negative image of the Tax Administration and undermine confidence in the government. If taxpayers feel the amounts in the assessments are unfair, tax obligations are less likely to be met in the future, possibly leading to a decrease in tax revenue for the government.

There have been no alternatives discussed to increase compliance and reduce workloads.<sup>24</sup>

### *VI. The relationship between ex officio assessments, payments, and appeals*

A systematic record of the number of ex officio assessments issued, the number of appeals filed, and the number of ex officio assessments paid are not collected. An analysis of the quantity and results would reveal the effectiveness of the process. If a high percentage of appeals appeared to result in a decrease in taxes paid, it could indicate that the assessment process is not accurate or fair.

### *VII. Sending ex officio assessments using the postal system*

The Tax Administration mails ex officio assessments using the regular postal service. As such, they do not verify that the taxpayer has, in fact, received the assessment. The reliance on the postal service has the potential for delayed deliveries and ambiguity in the receipt of assessments, which results in reduced tax compliance and increased administrative costs.

---

<sup>23</sup> Interview report Section Head of Assessments dated January 28, 2023.

<sup>24</sup> Idem.

## VIII. Denial of sampling

During our audit, we intended to use a random sample to gain insight into the calculation methodology used to derive the reference amount, the standard application of the fine and surcharge, and the assessment outcome. However, we were informed that we could not access records due to sensitivity to privacy issues.<sup>25</sup>

The legislative intent is such that our authority to audit the financial and material management of the Government 'is not subject to any limitation'. Moreover, we are authorized to demand all information that we consider necessary for the performance of our audit.<sup>26</sup> The legislature has determined that there should be no question concerning the scope of this authority.

Since we were precluded from sampling, we could not verify that the (unwritten but internally known) ex officio assessment process is applied consistently, with integrity, and without arbitrary discretion.

### 3.4 Business Taxpayers

The procedure for determining the ex officio tax assessment for business taxpayers differs from that for private individual taxpayers. Instead of the ex officio tax assessment for business taxpayers being calculated by an assessor, it is done by the automated tax system. The system produces a monthly assessment based on the returns and payments received. The file contains 'regular', ex officio, and post-tax assessments.

The Tax Administration uses the computerized tax application SIAH. This system originated in 2000 and is no longer supplied with updates.<sup>27</sup> The Internal Auditor's Audit Report (SOAB) accompanying the 2021 Financial Statements contains no remarks about the reliability and continuity of automated data processing. Nor did any other experts investigate this matter. Consequently, uncertainty exists regarding reliability and continuity.

Users of the system are required to enter a password for access. There is no requirement to regularly change the password. We also note that the tax system is not linked to the Receiver's computer system. Therefore, the Tax Administration depends on the Receiver for information on the resolution of assessments.

The Tax Administration will continue to impose ex officio tax assessments if the taxpayer does not file a return. Here, the underlying principle is legal compliance and the individual taxpayer's responsibility to file. When taxpayers disagree with the (amount) of the tax assessment, they are expected to be aware of their options for filing an objection.<sup>28</sup>

### 3.5 Findings: business taxpayers

#### I. Production of unverified automated ex officio assessments

The tax system determines the monthly ex officio tax assessment without being reviewed for reasonableness by a Tax Administration employee (or via another method). This results in a 'routinized' monthly production of ex officio assessments.

#### II. Inadequate understanding of circumstances

There are different reasons why returns are not filed, and ex officio assessments are issued. For example, the business in question may no longer exist, or the mailing address may have changed. As a result, a towering pile of ever-aging ex officio assessments has accumulated absent any (higher) tax revenue benefit. Ultimately, it will cost the tax authorities extra time, money, and effort to investigate why returns are not filed and clean up the tax file.

A project is currently underway to clean up tax files related to businesses.<sup>29</sup> This project will run until approximately July 2023. For example, it will explore which businesses assessed in 2019 still operate and can be subject to collection. As we understand it, vital data is missing for a substantial portion of the businesses, and therefore uncertainty exists as to whether the issued assessments will generate revenue.

---

<sup>25</sup> Interview report with the Head of the Tax Administration dated February 24, 2022.

<sup>26</sup> Articles 1 and 26 of the National Ordinance General Audit Chamber, including the Explanatory Memorandum.

<sup>27</sup> Interview report with the Head of the Tax Administration dated February 24, 2022.

<sup>28</sup> National Ordinance containing general provisions of Formal Tax Law, articles 10 and 16.

<sup>29</sup> Tax Administration St. Maarten database cleanup Project Manager, interview report dated November 24, 2022

### III. Outdated ICT-systems

The Tax Administration relies on the computerized tax application system, SIAH. However, this system dates back to 2000 and no longer receives updates.<sup>30</sup> No remarks on the reliability and continuity of automated data processing were made in the Internal Auditor's Audit Report (SOAB) to the 2021 Financial Statements. Similarly, no research was conducted by another expert on this matter. This implies uncertainty about reliability and continuity.

### IV. Passwords are not regularly changed

Users of the system must enter a password to access the system. Changing the password regularly is not a requirement. When a password is not changed on a regular basis, the risk of unauthorized access to sensitive information increases, as passwords can be easily guessed or acquired through hacking techniques such as *phishing*.<sup>31</sup>

### V. Connection to the Receiver, Census, and Chamber of Commerce systems

We also note that the tax system is not linked to several key data systems. As a result, the Tax Administration relies on third parties for information about settling assessments, such as address changes and corporate changes. We reported this in our 2019 study entitled "[Efficient Collection of Government Claims](#)." Even then, the Receiver, Census, and Tax Administration systems were not linked. This situation is nevertheless unchanged.

## 3.6 Conclusion

Given our findings during this audit, we conclude that in this situation, managers cannot determine whether the process for imposing ex officio assessments is efficient and whether adjustments are needed. It also implies that no (well-considered) additional policies can be developed to improve compliance to allow a reduction of the required capacity for determining ex officio assessments.

Similarly, no information can be compiled to hold the minister accountable to Parliament. An example is the lack of information in the mandatory Summary Template Statement 12 of the Annual Financial Statements of the Government of St. Maarten (assessments imposed in the fiscal year and previous fiscal years).

In answering our audit questions, we conclude that the Tax Administration uses reminder notices and ex officio assessments to persuade individuals to file returns. Pressure is exerted by means of an increase (surcharge) in the amount of taxes due as an inducement for the taxpayer to file a return.

The Tax Administration's work is based on unwritten guidelines originating from the era of the Netherlands Antilles. There is a draft document that explains, among other things, the process of the ex officio assessment, but this document has not been adopted, and the staff within the Tax Administration often are not familiar with it.<sup>32</sup> The answer is no regarding whether equal treatment of taxpayers is guaranteed. There are too many risks that make arbitrary decisions possible.

The Tax Administration does not have reliable information on the number of ex officio assessments that are issued annually and the effectiveness of the assessments. The reasons are that a. the tax files are corrupted and need to be first cleansed, b. a lack of personnel, and c. the tax system cannot produce the data.<sup>33</sup>

On December 22, 2020, St. Maarten and the Netherlands signed a mutual arrangement to implement the Country Package St. Maarten. Based on existing and/or additional research, the Country Package includes provisions to determine whether and how to optimize and modernize the Tax Administration to ensure effective and efficient tax collection. We hope that implementing the Country Package will result in a Tax Administration that sustainably achieves its mission and objectives.

---

<sup>30</sup> Interview report with the Head of the Tax Administration dated February 24, 2022.

<sup>31</sup> *Phishing* is a type of cybercrime that uses fake emails, websites, or messages to induce individuals to reveal important information, such as passwords or credit card information. For taxpayers, scammers may impersonate tax officials and ask for personal and financial information such as CRIB numbers and bank information.

<sup>32</sup> Interview report Section Head of Assessment dated January 18, 2023.

<sup>33</sup> Interview report with the Head of the Tax Administration dated February 24, 2022.

## 4. NUDGES: STIMULATING COMPLIANCE

The Tax Administration's repressive policy focuses on coercive measures (surcharges and fines) to encourage compliance. As there is a lack of data about its effectiveness, we support further research into alternatives. One of these alternatives may take the form of a so-called *nudge*.

### 4.1 What is a nudge?

A nudge is an incentive. It is an inducement to help citizens meet their tax obligations. Nudges can be used to encourage people to pay their taxes on time and diligently. Nudges are sometimes difficult to implement but can add value with time.

### 4.2 The benefit of nudges

With nudges, the freedom of personal decision-making is not limited, and they do not have a coercive character. Instead of punishing bad behavior, the environment subtly changes to promote the desired behavior. As such, nudges are a practical and economical option for government agencies trying to encourage tax compliance. Indeed, nudges are often more cost-effective than typical coercive measures such as fines. No collection agencies, bailiffs, courts, or law enforcement will be involved in imposing penalties.

### 4.3 Examples of nudges

- Simplify the filing process. Provide pre-filled forms and explore the possibilities of online filing of returns. A link to the digital systems of third parties (see section 3.5 under point V) offers support in this regard;
- Add explanations to the tax return forms about the specific information that is being requested for each question;
- Let taxpayers communicate with the Administration through various channels. For example, online, social media, by phone, and in person;
- Directly contact the taxpayer (such as by phone, email, or even site visit) to determine the reason for the failure to file timely returns; and
- Make investments in a user-friendly online tax return and -payment systems, and ensure they are accessible and secure.<sup>34</sup>

Using nudges can bring about longer-term behavioral changes than sanctions such as fines. For some people, anxiety about fines and other forms of punishment may be the only reason for complying with their tax obligation. Conversely, nudges can change people's negative perceptions of taxes, increasing the likelihood that they will voluntarily fulfill their tax obligations.

#### Case studies

The British government introduced a nudging initiative called "Making Tax Digital"<sup>35</sup> in 2010 to encourage citizens to pay their taxes. Changes such as default settings, peer pressure, and easy access to relevant data were integrated into the program. For example, citizens were given detailed instructions on how to fill out returns.

One of the program's positive outcomes was a marked increase in tax compliance and a decrease in filing errors. In addition, the program revealed that simply providing clear and straightforward information combined with a standard payment option increased the likelihood that citizens paid their taxes on time.

The Dutch government launched a campaign called "Pay your taxes on time"<sup>36</sup> that introduced *nudges*. The program showed participants how their tax payments compared to their neighbors as a means of encouragement. Citizens were more likely to pay their taxes on time after being informed about the public expectation that they would pay, confirming the approach's effectiveness.

---

<sup>34</sup> Tax Administration Diagnostic Assessment Tool (TADAT), April 2019, page 63:  
<https://www.tadat.org/assets/files/TADAT%20Field%20Guide%202019%20-%20English.pdf>

<sup>35</sup> <https://www.gov.uk/government/publications/making-tax-digital>

<sup>36</sup> Behavioral Economics and Tax Compliance: A Review of the Literature by the Dutch Tax and Customs Administration (2017)

## 5. OUR EPILOGUE

As part of our audit protocol, a memorandum of findings has been shared with the Secretary General of the Ministry of Finance and the Head of the Tax Administration to respond to our facts and findings during the investigation, with the aim of clarifying those facts and findings. Verify. The note was shared on February 24th, 2023, with the request to respond no later than March 10th. We have not received a response, even after we had extended the deadline up to and including March 16th.

We value a response because:

- it is a check on the facts and findings that emerged during the investigation;
- the response may contain additional information and provide further explanation;
- it can contribute to solutions of identified risks and bottlenecks and
- a response shows that people are seriously looking at what has been observed and that constructive work is being done to improve the situation.

On March 20, 2023, the draft report was presented to the Minister of Finance in the context of administrative hearings. During this process, the Minister is given the opportunity to comment on the report. His response is usually included in full in the report. In connection with our audit planning, the Minister had until March 27, 2023 to respond.

We have not received a response.



General Audit Chamber  
Algemene Rekenkamer