

To
UFE member organisations

Berlin, 6th May 2010 /bb

Message no. 4/2010

Jurisdiction of financial authorities in the determining and following-up of tax offences.

Dear Colleagues,

According to a message from Hungarian colleagues from the VPFSZ, the new government in Hungary is planning widespread organisational changes in Hungary's financial administration.

In particular, the task of determining tax offences shall be removed from the financial authorities and assigned to the general police, or rather justice, sector. The UFE does not believe this makes sense. In Germany and France, the determining of tax offences by means of financial authorities has proven itself to be successful. So as to support Hungarian colleagues in their fight against a break-up in the determining of tax offences by the financial administration organisation, we are asking for information regarding to whom the determining of tax offences is assigned in your country. With a view to a better structure of your answers, we ask for a reply to the following questions:

1. Which authority determines the facts fully when a tax offence is suspected, the financial authority responsible for taxation or the police / public prosecutor?

In Germany, the criminal court and civil penalty body of the financial office determines and follows-up tax offences and offences against tax laws. Penalties for administrative offences, i.e. smaller crimes which are not criminal offences, can be inflicted by the criminal court and civil penalty body itself with an administrative fine, but with criminal offences, a criminal court judge can order a fine or a suspended prison sentence of a maximum of 1 year (penalty order).

2. What kind of competences for the determining of tax offences does the financial administration have in your country?

In Germany, the tax offence investigation, a special external service of the financial administration, investigates tax offences and offences against tax laws –if this can't be done within the internal body of the financial administration. In tax offence proceedings, the tax offence investigators have the same rights and obligations as police officers. Their task here is one of financial policing. As a supporting force of the public prosecution, they may – usually with judicial authorisation (search warrant) – carry out searches and impoundments, as well as look through documentation. Provisional arrests also happen. Larger operations are undertaken with the help of the police, as the tax investigators themselves are not armed.

3. In your country, is there an external service which is assigned with the investigation of tax offences and offences against law laws as well as the uncovering and determining of unidentified tax situations? If yes, what kind of legal capacity does this unit have?

We would be very thankful for a prompt reply.
Thank you in advance for your time.

Yours sincerely,

(R. Zender)
General secretary