

Policy regarding the imposition of administrative fines pursuant to Article 28 of the National Ordinance on International Assistance for the levying of taxes (LIBB)

1. Introduction

In the context of due compliance with the obligations arising from the National Ordinance on International Assistance for the levying of taxes (LIBB) and the National Decree on Implementation of International Assistance (LB LIBB), it is of importance that non-compliance or inadequate compliance with said obligations be appropriately sanctioned.

Article 28 of the LIBB provides for the possibility to impose an administrative fine of at least XCG 100,000 and not exceeding XCG 250,000 in case of negligence on the part of those required to keep records. The person required to keep records may plead the absence of all guilt if they make it plausible that they cannot reasonably be blamed for the violation observed.

With due observance of these statutory provisions, I have decided the following.

2. Warning

Within the framework of the LIBB and the LB LIBB, where appropriate, prior to the imposition of an administrative fine, a **written warning** shall be issued to the offender. The purpose of this warning is to give the person concerned the opportunity to rectify the violation or to comply with the obligations, without a fine immediately being imposed.

A warning shall be issued in writing and shall in any case contain:

- a clear description of the violation observed;
- the relevant statutory or policy-based provisions on which the obligation is based;
- a reasonable term within which the offender shall be given the opportunity to comply with the obligation;
- referral to the fact that – if rectification does not take place within the term set thereto - an administrative fine may still be imposed.

Issuance of a warning is not mandatory in all cases. In cases of repeated violation or other aggravating circumstances, a fine may be issued immediately without prior warning.

3. Fine policy with regard to automatic exchange of information

Automatic exchange of information refers to the compliance with the obligations to submit fiscal data to the tax authority, pursuant to Article 22 LIBB and the LB LIBB. When imposing the fine, the number of times default has been observed in the previous four years shall be taken into account.

3.1 Late complete submission of the data

- A. First default XCG 100,000
- B. Second and following defaults XCG 150,000

3.2 Timely and incomplete submission of data

- A. First default XCG 100,000
- B. Second and following defaults XCG 150,000

3.3 Late and incomplete submission of data

- A. First default XCG 125,000
- B. Second and following defaults XCG 175,000

3.4 Non-compliance with the obligation to exchange data

In cases in which those required to keep records fully fail to comply with the obligation to automatically submit data or information, a fine of XCG 250,000 shall be imposed.

4. Fine policy with regard to identification and record-keeping requirements for automatic exchange of information

These requirements include the implementation of identification procedures and record-keeping in accordance with Article 22 of the LIBB and Articles 2 and 2a, third paragraph, of the LB LIBB. When imposing the fine, the number of times default has been observed in the previous four years shall be taken into account.

4.1 Partial non-compliance with the identification and record-keeping requirements

In case of partial compliance with the identification and record-keeping requirements on the part of those required to keep records, a fine shall be imposed:

- A. First default XCG 175,000
- B. Second and following defaults XCG 250,000

4.2. Non-compliance with the identification and record-keeping requirements

In case of non-compliance with the identification and record-keeping requirements on the part of those required to keep records, a fine shall be imposed of XCG 250,000.

5. Fine policy with regard to self-certification

A fine of XCG 10,000 shall be imposed on those who make a false self-declaration or who fail to update information in a self-declaration.

6. Circumvention

If there is an agreement or practice of which the primary goal may be reasonably assumed to be the circumvention of a requirement as referred to in the LIBB or the LB LIBB, a fine of XCG 150,000 may be imposed.

The Minister of Finance