Tax and Customs Administration

Guide
Horizontal Monitoring
Tax service providers

Table of Contents

To table of contents

Preamble

The Netherlands Tax and Customs Administration (NTCA) carries out its supervision and enforcement duties based on its compliance risk management strategy. The NTCA strives to influence the behaviour of citizens and businesses in such a way that they comply with the (tax) laws ans regulations in a structural manner (compliance). This should ensure both the continuity of tax revenues being guaranteed as well as the legality of payment of benefits. In carrying out its supervisory and enforcement tasks, the NTCA operates within the law and in conformity with the principles of sound administration.

The NTCA manages compliance risks by making choices about the use of supervisory/enforcement tools in order to ensure that citizens and businesses that comply with the (tax) rules will continue to do so, as well as to counteract non-compliance. ‘Supervision’ comprises the set of activities. All these activities of the NTCA, from service to the actions against fraud, focus on positively influencing the compliance behaviour of the taxpayer and those entitled to benefits. The objective is for ‘each citizen and for each business to get the treatment they deserve’.

The NTCA, therefore, adjusts its supervisory tools to the willingness and the ability of (groups of) citizens and businesses to comply with (tax) rules. Various tools may be deployed for various purposes, such as informing citizens and businesses whenever they lack certain knowledge, promoting self-reliance, motivating citizens and businesses to comply with the rules and correcting intentional non-compliance. In its interaction with an individual citizen or business, the NTCA takes the relevant circumstances into consideration and adjusts its actions to it (responsive).

The NTCA strives to arrange as many cases as possible ‘upfront’, in collaboration with the parties concerned (citizens, businesses and organisations). Whereas filing a return was traditionally the starting point of the monitoring process, it is increasingly becoming the ‘end point’ of supervision, due to a steadily improving information position. Target-group oriented services and means of horizontal monitoring enable taxpayers to comply with their legal obligations in such a way that it contributes to a higher quality of the return or application. However, when citizens and businesses make a mockery of their legal obligations, this is met with repressive supervision and in extreme cases criminal prosecution will be instituted.

Horizontal monitoring is a specific approach for citizens, businesses and organisations that want to cooperate with the NTCA and are able to maintain or improve the quality of the tax returns. This is in line with the compliance risk management strategy of the NTCA.

This guide describes a specific form of horizontal monitoring, namely horizontal monitoring via the tax service provider.

To table of contents

Introduction

This 'Guide Horizontal Monitoring Tax Service Providers' replaces the 'Guide Horizontal Monitoring within the SME segment'. This Guide is fully revised against the 'Guide Horizontal Monitoring within the SME segment'. This was necessary in order to keep pace with the practical experiences gained by and the reactions received from users within and outside the Netherlands Tax and Customs Administration.

The objective of horizontal monitoring and the perception of this form of supervision have remained unchanged. Consequently, the intention of this Guide has also remained unchanged: to provide for the uniformity of implementation.

The Guide not only provides an overview and insight into the procedure of the NTCA, at the same time, it offers a context leading to a recognisable approach in its actions. This Guide refers to horizontal monitoring with tax service providers (hereinafter referred to as Horizontal Monitoring TSP).

This form of horizontal monitoring is meant for businesses, especially within the small and medium-sized businesses segment (SME segment). There is a separate Guide available that concerns horizontal monitoring in the segment of Large Businesses. The Guides have been harmonised where necessary. You will find them at www.belastingdienst.nl. Up-to-date versions are published on this site.

The Guide explains how the NTCA intends to cooperate with tax service providers in the SME segment within the field of horizontal monitoring. This allows the Administration to ensure a recognisable and unified approach, both internally as well as externally. This is key to the success of horizontal monitoring. It is for this reason that the procedure set out in the Guide Horizontal Monitoring TSP is not a mere paper exercise. Deviation is only possible in consultation with the SME Directorate of NTCA.

The 'Guide Horizontal Monitoring TSP' is comprised of a compact document explaining the principles and main elements of the horizontal monitoring process. The annexes to the Guide contain the specific details. The annexes to the Guide may be altered in the interval.

To table of contents

1 Horizontal monitoring: the essence, objective and approach

This section sets out the essence of horizontal monitoring, the principles adopted, the objectives that are pursued and the approach selected.

Section 2 explains the terms used in this section.

1.1 The essence and principles of horizontal monitoring

Essence
Horizontal monitoring refers to mutual trust between the taxpayer and the NTCA, as well as to the more precise specification of each other's responsibilities and the options available to enforce the law and comply with the mutual agreements. As a result, the underlying relationships and communications between citizens and government shift, to a more equal situation.

This horizontalisation of supervision will primarily be achieved, in cooperation with the relevant external parties, by shifting the supervisory process from monitoring ex post to advance consultations. This cooperation will be based on mutual trust, understanding and transparency.

Trust is needed, as there is inequality in knowledge of information between the tax service provider, the entrepreneur and the tax administration. Trust is justified when it is based on mutual knowledge of the procedure and the processes and on all parties taking their responsibilitys.

Understanding is required *for constructive cooperation*. It is important to be aware of each other's views and to understand the position and the interests of the other party that may sometimes be opposite.

Transparency refers to complete openness by the tax service provider, the taxpayer and the tax administration. The tax service provider and the taxpayer (the entrepreneur who is a client of the tax service provider) are transparent about relevant tax issues. The NTCA is transparent about the background of its questions and the implementation of its compliance risk management strategy.

Starting points
Key to horizontal monitoring with tax service providers is for the NTCA to rely on the work that the tax service provider carries out on behalf of its client (the entrepreneur). This enables the NTCA to reduce its supervision. Key to horizontal monitoring is the in principle assumed willingness of tax service provider to submit acceptable tax returns on behalf of their clients.. The attitude and behaviour (trust, understanding and transparency) of both the entrepreneur as well as the tax service provider and the tax service provider's internal quality assurance system form the basis for this. In addition, the tax service providers and the NTCA consult each other on any relevant tax matter that could give cause to a difference of opinion before the requisite tax returns are filed (preliminary consultations). This approach provides assurances for the acceptability of the tax returns. It enables the NTCA to provide rapid certainty about the assessments. There are less ex post audits. The supervision of the agreements set out in the compliance agreement compliance agreement and the acceptability of the tax returns, is carried out as a form of meta-supervision during the term of the compliance agreement.

Participating in horizontal monitoring by means of a tax service provider compliance agreement compliance agreement not only comprises of filing an acceptable return, but also pertains to the process of timely and full payment of taxes. By participating in horizontal monitoring, the entrepreneur not only signs for his willingness to filing timely and acceptable returns i, but also signs for his willingness to make correct, full and timely payments of tax+.

One precondition attached to horizontal monitoring is the imposition of the same requirements on all tax service providers. This is necessary to avoid unfair competition. The level playing field must be maintained. The Netherlands Tax and Customs Administration secures this level playing field by setting the standard for the acceptability of the returns filed (output standardisation). This standard is equal for tax returns within as well as outside horizontal monitoring agreements. By opting for this standard, the NTCA facilitates the accessibility of horizontal monitoring for as many tax service providers as possible, even if they differ from each other in size, organisation and background.

The laws and regulations continue to apply without prejudice to all parties participating in horizontal monitoring.

When it is obvious that essential agreements resulting from the compliance agreement are not met by the tax service provider, or by the clients of the tax service provider, the agreements from the compliance agreement will be cancelled.

1.2 Objective of horizontal monitoring

In all supervisory activities, the objective of the NTCA is to ensure that taxpayers meet their legal obligations voluntarily. We call this promoting compliance. The NTCA in principle assumes that a large part of the taxpayers is willing to meet the obligations voluntarily and assists them in this. The strategy of the NTCA is responsive regulation. This means that NTCA aligns its actions to the willingness and the ability of taxpayers in meeting their obligations. Supervision or enforcement by the NTCA does not merely focus on correcting errors made in the past, but also on preventing the (same) mistakes from being made in the future. The NTCA uses compliance risk management[1] and has various tools at its disposal for this.

The NTCA intends to enter into proactive cooperation with service provider parties. For this, horizontal monitoring is the supervisory tool. The objective of horizontal monitoring is to maintain or improve the quality of the tax returns, among other things by cooperation and alignment with tax service providers. By making use of the work carried out by the tax service provider, efficiency will increase, which enables the NTCA to be more up-to-date and thus, to offer certainty more rapidly. The NTCA reaches companies within the SME segment through the tax service providers. This guarantees the quality of the tax returns filed by them. The ultimate goal of all parties concerned is to file acceptable returns.

1.3 Approach

The NTCA implements horizontal monitoring by concluding compliance agreements[2] with tax service providers. They select clients who are suitable for participation and register them. The tax service providers file the tax returns that they prepare on behalf of the participating clients as compliance agreement tax returns. The entrepreneur makes a statement indicating the intention that he underlines the starting points of horizontal monitoring. This is laid down in the alignment agreement (see paragraph 4.1).

1 Compliance risk management means making a conscious decision which tools are to be deployed, in what combination and how thoroughly in order to improve the compliance in a certain situation or to support good behaviour.

2 There are various names for compliance agreements through the umbrella organisations, such as a statement of participation. The term 'compliance agreement ' will be used for all these names.

For efficient cooperation it is important for the tax service provider to register a sufficient number of companies that take part in horizontal monitoring. The tax service provider has a duty of best efforts. In all cases, the focus lies on quality.

The NTCA concludes compliance agreements with tax services providers that at a minimum cover the following taxes: income tax, corporation tax, payroll tax and VAT. The compliance agreements that have been concluded extend over the entire process: from the preparation of the tax return to its payment.

The tax service provider needs an adequately functioning quality assurance system to ensure the quality of the tax returns filed under horizontal monitoring. Professional organisations, trade organisations and umbrella organisations (hereinafter referred to as umbrella organisations) often contribute significantly to the tax service provider's quality assurance system. When a tax service provider is a member of an umbrella organisation, with which the NTCA has concluded a compliance agreement[3], the NTCA relies on the work carried out by this umbrella organisation. In these cases, the tax service provider takes part in horizontal monitoring through the relevant umbrella organisation. If a tax service provider cannot participate in this way, an independent compliance agreement may then be concluded. The NTCA will then have to conduct an independent research into the quality assurance system 1(see paragraph 3.2).

6 steps are distinguished in horizontal monitoring with tax service providers. The 6 steps are:
1 Compliance agreement discussions and the conclusion of a compliance agreement (Section 3)
2 Application and cancellation of companies (Section 4)
3 Preliminary consultations (Section 5)
4 Filing and processing the tax return (Section 6)
5 Randomly selected audits (Section 7)
6 Monitoring and evaluation of compliance agreement (Section 8)

1.4 Entrepreneurs who can participate in horizontal monitoring

Horizontal Monitoring TSP is intended for entrepreneurs who subscribe to the basic principles of horizontal monitoring. Horizontal Monitoring TSP is intended specifically for companies within the SME segment. Under certain conditions, private individuals or taxpayers who are categorized as large businesses may participate in Horizontal Monitoring TSP. This is elaborated further in paragraph 4.1 for private individuals and in Section 11 for large businesses.

As a taxpayer, the tax service provider cannot participate in horizontal monitoring via its own tax service provider compliance agreement with respect to his own tax return. The reason for this lies in the fact that the cooperation and the independence of the 3 parties, namely the tax service provider, the entrepreneur and the NTCA, plays an importance role. The same applies to the tax return of a tax official (an employee of the Netherlands Tax and Customs Administration), given his special position and the rules of integrity. Any semblance of a conflict of interest must be avoided.

Enforcement of so called 'safe harbours' (sectorsallegedly 'without government supervision) [4] is part of an government wide supervision approachConsequently, companies in these sectors cannot be included in a compliance agreement concluded with a tax service provider.

3 The NTCA concludes compliance agreements with umbrella organisations. Agreements are made about their contribution towards the quality of the participating tax service providers. Concluding these compliance agreements is a specific process. This is not further elaborated in this Guide.

4 At the time of publication of this Guide there are 3 safe harbours, namely coffee shops, the prostitution sector and the caravan camps.

To table of contents

2 General concepts

A number of concepts and frameworks are of importance to the uniform implementation and dissemination of horizontal monitoring, namely:
– Acceptable tax returns
– Compliance agreement tax returns
– Service level
– Tax service provider
– Relationship management
– Meta-supervision
– Adjusted monitoring

These concepts are explained briefly in the following paragraphs.

2.1 Acceptable tax returns

A tax returned is deemed acceptable[5] when it complies with the requirements imposed by legislation and regulations and is free of material misstatements[6].

The materiality plays no part in whether or not correcting misstatements which actually found or or are known known; for this, the framework of the Tax Law applies.

Acceptability involves the completeness and the correctness of the return.[7]

It is often not possible for a tax service provider to provide a reasonable assurance about the completeness of the revenue recognition of a SME segment. An important reason for this are the inherent limitations in the auditing of SMEs. The NTCA does, however, expect the tax service provider to carry out his duties with due care. Due care in the field of completeness of the revenue statement means that the tax service provider at a minimum, carries out his activities and provides the quality as set out in the laws and regulations as well the relevant rules of conduct and the professional code[8].

This duty of care also extends to the activities carried out in verifying that the tax returns are correct. The limitations on completeness do not apply to the correctness of tax returns. The tax service provider can assess whether a transaction has been entered correctly in the accounts and in the tax return.

5 The 'acceptable return' is not an independent legal concept. Laws and regulations determine the requirements with which a return must comply. The 'acceptable tax return' term is of importance to the Tax and Customs Administration's supervision. Please be referred to the Audit Approach of the Netherlands Tax and Customs Administration for the concept 'acceptable tax return' as applied by The Netherlands Tax and Customs Administration in its supervision. This is published on www.belastingdienst.nl.

6 The concept of materiality is further detailed in Annex V.

7 It concerns the entire materially tax owed, including the other tax obligations. For instance, the adjustment and correction obligations.

8 Think for example of title 9 of the Civil Code or the audit guidelines or guidelines of another professional organisation to which the tax service provider is a member.

2.2 Compliance agreement tax returns

Tax returns prepared by tax service providers are deemed to constitute compliance agreement tax returns only when the company for whom the tax return is prepared participates in the compliance agreement for those tax types of tax.

Within this context, 'the preparation of a tax return' is understood to be a tax return which is prepared by the tax service provider and filed under the responsibility of the tax service provider and consequently, is governed by the tax service provider's quality assurance system. The question who actually files the tax return, be it the tax service provider, the entrepreneur himself or a third party, is not leading in this. When an entrepreneur prepares the tax return himself, for example the VAT return or the payroll tax return, this may be a compliance agreement tax return, as long as the tax service provider has carried out sufficient work to ensure the acceptability of the tax return filed.

It may be that a tax service provider must rely on data provided by a third party, for example a payroll company or another consultant, in preparing the compliance agreement tax return. In horizontal monitoring, we expect the tax service provider to exercise a duty of care with respect to these data supplied. This duty of care means that he must check from a professional and critical point of view to what extent thedata that have been supplied are reliable and whether these result in an acceptable tax return.

The standard for a compliance agreement tax return is the acceptable return. The NTCA leaves it up to the professionalism of the tax service provider to decide how he ensures that compliance agreement tax returns meet the standard.

2.3 Service level

The NTCA provides an adjusted service level in horizontal monitoring. These are internal and external agreements about a fixed point of contact, rapid certainty and adjusted monitoring.

In participating in horizontal monitoring, the tax service provider will have 1 fixed point of contact at the NTCA, the relationship manager. The relationship manager is the fixed point of contact for questions regarding companies participating in the compliance agreement. The relationship manager is responsible for the fulfilment the service level.

Rapid certainty means establishing a processing time that is as short as possible. This part of the service level is specified further in Annex I.

2.4 Tax service provider

The tax service provider is defined as the person who or the company that contributes commercially in processing the rights and obligations of citizens and businesses towards the NTCA.

Tax service providers may provide their clients the following services:
- The organisation and provision of the financial accounts and/or salary accounts.
- The preparation, compilation, assessment or audit of the annual accounts.
- The preparation and filing of tax returns.
- The provision of (tax) advice.

A tax service provider may provide a company with 1 or more of these services. In horizontal monitoring, the tax service provider must have carried out sufficient work to guarantee the acceptability of the tax return.

2.5 Relationship management

Relationship management is an important spearhead in successfully fulfilling the objective of horizontal monitoring TSP. This role is facilitated by a relationship manager. The relationship manager is the fixed point of contact and plays a key role in the cooperation between the NTCA and the participating tax service provider. Building up and maintaining a working relationship with the tax service provider participating in horizontal monitoring, takes place at 2 levels: at management and operational level.

The relationship manager at management level:
- Has contacts at management level with the tax service provider.
- Is involved in the process of concluding the compliance agreementcompliance agreement.
- Takes note of the quality assurance system.
- Holds management discussions with the tax service provider.
- Is responsible for the evaluation or the arrangements for the evaluation.
- Coordinates the national implementation of the compliance agreement.

The relationship manager at operational level is the first point of contact of the office of the tax service provider and maintains the operational contacts with its offices/branches. His duties include the duty to ensure that the level of service agreed upon is met and to initiate the learning cycle.

2.6 Meta-supervision

By meta-supervision, the NTCA aims to establish whether horizontal monitoring is effective and functions properly and whether it results in acceptable returns. Meta-supervision provides the NTCA information about the quality of the processes of the tax service provider and about the quality of the compliance agreement tax returns that have been filed.

Meta-supervision also offers the possibility to improve on quality. Each of the 6 steps (see paragraph 1.3) of horizontal monitoring provides information about the behaviour and the quality of the tax service provider and in doing so supplies information that is important to meta-supervision. If meta-supervision provides justification for such action, the relationship manager, together with the tax service provider, reviews the need for modifications of the underlying processes. In adopting this approach, meta-supervision initiates a learning cycle.

2.7 Adjusted monitoring

The principle of horizontal monitoring is that monitoring will be adjusted by relying on the professionalism of the tax service provider and the compliance of the entrepreneur. Monitoring takes place via meta-supervision. The company participating in horizontal monitoring is not included in the regular supervision done by the NTCA.

In principle, companies participating in horizontal monitoring will not be involved in specific supervisory campaigns of the NTCA insofar as the campaigns focuses on the tax returns for which they are registered. If the action involves aspects that can not or be assessed by tax service providers (or for which assessment is limited), for example on completeness, it may be decided that these companies will be included in the action after all. This is only done in national campaigns. Such national campaigns must first be coordinated with the SME Directorate of the NTCA (hereinafter referred to as SME Directorate). It is then first established whether these campaigns can follow a specific approach in line with the principles of horizontal monitoring, whereby cooperation with the tax service provider is the basis.

Also, the NTCA will, conduct an investigation when there are suspicions of possible fraud and also a third-party investigations may be initiated. In a third-party investigation, the NTCA investigates the financial records with a view to the taxation of a third party.

Clients of a tax service provider who are not registered for horizontal monitoring will continue to be under regular supervision by the NTCA.

To table of contents

3 Compliance agreement discussions and the conclusion of a compliance agreement (step 1)

This section addresses Step 1 of horizontal monitoring. This step is focused on 'willingness', the intention of the tax service provider, and 'ability': is the tax service provider capable of preparing acceptable returns. A basic principle for the participating tax service provider is sufficient professionalism to be able to file an acceptable tax return.

If a compliance agreement is concluded with an umbrella organisation, we rely on the quality assurances offered by the umbrella organisation. As a result, the process leading up to signing such a compliance agreement is less extensive than for an individual compliance agreement with a tax service provider. This especially applies to the assessment of the tax service provider's quality assurance system.

Contact must first be made with Tthe SME Management has to be contacted before compliance agreement discussions can take place with a tax service provider who is not a member of an umbrella organisations.

3.1 Compliance agreement discussions

Compliance agreement discussions are focused on the intention of the tax service provider, i.e. the 'willingness'. In addition, these discussions are an introduction and an explanation is given on the objective and procedure of horizontal monitoring. Multiple meetings might be required to review all these issues thoroughly and to give the relationship more shape and substance.

The NTCA's compliance agreement discussions with the tax service provider talk over the horizontal monitoring concept. The Netherlands Tax and Customs Administration also explains how it audits the acceptability of tax returns. The Dutch Audit Approach (CAB)[9] is shared, including the materiality table used by the NTCA. Also see Annex V.

The first compliance agreement discussion is conducted with the tax service provider's top management. A representative of the management team of the NTCA will take part in this meeting. Commitment at management level is a critical success factor for both parties.

The compliance agreement discussions will need to address at least the following issues:
- The set-up of the organisation of the tax service provider, such as size, branches and organisational structure.
- Experiences with current or recent mutual contacts.
- An explanation of the key concepts and principles of horizontal monitoring, in particular the acceptable return and the adjusted monitoring.
- The selection of qualifying entrepreneurs, the importance of commitment from the side of the entrepreneur and the alignment agreement.
- An outline of the six steps in the horizontal monitoring process.
- The mutual responsibilities and expectations.
- How horizontal monitoring works in practice. tolign expectations and practice.
- The fact that the NTCA relies on the tax service provider's quality assurance system and how this will be worked out (see paragraph 3.2).
- The tone at the top.
  What is the tax service provider's view of cooperating with the NTCA and does the tax service provider want to enter into a relationship that is based on transparency, understanding and trust?

9 CAB is the Dutch Audit Approach. This is published on www.belastingdienst.nl.

- The way in which the tax service provider and the NTCA deal with promoting horizontal monitoring within their own organisations.
- The implementation plan: Implementation hin the own organisation, staff and of the companies to be registered for horizontal monitoring. For instance, how many clients qualify for participation, how does the tax service provider intend to reach the clients and how can the NTCA f support this.
- The procedure for companies that are part of the segment of large business which the tax service provider would like to bring under horizontal monitoring TSP (see paragraph 11.2)

Minutes will be made of the compliance agreement discussions.

3.2 The tax service provider's quality assurance system

It is important for the NTCA to know that the tax service provider is capable of preparing acceptable returns on behalf of his clients. The tax service provider should have the appropriate knowledge and skills. Furthermore, the organisation must be set up in such a way that the quality of performance is continuously executed at a sufficient level. This is the tax service provider's quality assurance system. The quality assurance system offers no guarantee of an acceptable return, however, it is a precondition. The NTCA only concludes compliance agreements with tax service providers who have implemented a properly-functioning quality assurance system.

Before concluding an individual tax service provider compliance agreement, the NTCA examines the quality assurance system. A technical meeting is part of this examination. The aim of the examination is to gain insight into the organisational precondition of preparing acceptable returns in continuity: the 'ability'. The examination is not an audit and does not result in an assessment by the Netherlands Tax and Customs Administration on the quality assurance system. The examination is coordinated with the legal affairs department of the NTCA.

If a tax service provider is a member of an umbrella organisation, it will be this umbrella organisation that assesses the quality assurance system. In these cases, the NTCA will rely on the findings of the umbrella organisation and will not conduct an examination

The exploration of a quality assurance system

Measures in a quality assurance system may be outlined in terms of its design, implementation and performance. The *design* reflects the way in which a tax service provider has set up the tax processes. The relevant procedures are often specified in manuals. The *implementation* relates to the manner in which the tax processes have actually been implementated at the tax service provider's office; this sometimes differs from the from manuals or intentions. The *performance* of the quality assurance system covers the question whether the processes have in fact been implemented as effectively and in continuity as specified in the set-up. The examination conducted by the NTCA with respect to an individual tax service provider compliance agreement focuses on the design and the implementation of the benchmarks that are important to the NTCA. The performance of the quality assurance system is not included in the examination. Meta-supervision will provide information to the NTCA about the performance of the quality assurance system.

To table of contents

The following benchmarks are important to the Netherlands Tax and Customs Administration in the examination of the tax service provider's quality system:
- The tax service provider management's responsibility for quality.
- Internal professional ethics standards.
- The acceptance of clients and the continuation of contracts with clients.
- (Maintaining) professionals skills and expertise
- The quality assurance system.
- Risk management policy.
- Work programmes.
- Documentation and files.
- Consultations with colleagues.
- Method of review.
- Provision of advice.
- Legal affairs department.
- Quality control.

Annex II outlines these benchmarks.

It is furthermore of importance that the following measures are included in the quality assurance system:
- Establishing the reliability of the input in the form of data supplied to the tax service provider by the client.
- Supplementing or enriching the information to achieve a compliance agreement tax return.

These activities and their results must be found in the file of the tax service provider.

A report is drawn up of the examination. The report covers findings of the 'ability' of the tax service provider. If, during this examination, information was obtained about the tax attitude of the tax service provider, the willingness', this will then also be included in the report. The report is concluded with an advice to the SME Directorate about concluding an independent compliance agreement. The SME Directorate decides whether the independent compliance agreement will be concluded based on the advice provided in the report. The tax service provider receives a copy of this report as well as the decision made

3.3 Drawing up and signing the compliance agreement

The relationship manager at NTCA management level is responsible for drawing up and signing the compliance agreement. Annex IV contains standard compliance agreement texts that must be used for drawing up compliance agreements. The compliance agreements that were concluded in the early stage may be worded differently though do not differ in content.. If the use of the standard compliance agreement does not appear to suffice in a particular situation, the intended relationship manager will contact the SME Directorate.

Working agreements in concluding a compliance agreement:
- All parties sign the compliance agreement and receive onecopy.
- The relationship manager of the umbrella organisation will be informed as soon as a compliance agreement has been concluded with a tax service provider who is a member of umbrella organisation.
- If the tax service provider wishes to give publicity to signing the compliance agreement, this will first be coordinated with the relationship manager at NTCA management level. When in doubt as to the contents of this publication, the relationship manager will coordinate with the press officers.
- When a tax service provider has several branches, the relationship manager at management level will arrange for a relationship manager at operational level for each branch.
- The tax service providers with whom compliance agreements have been concluded, are published at www.belastingdienst.nl. The relationship manager at NTCA arranges for the publication on this website.

To table of contents

4 Applications and cancellation for companies (step 2)

This section sets out which companies can participate in horizontal monitoring and how the logistical process is set in place for the application of an entrepreneur wishing to participate in the tax service provider compliance agreement. It also describes the procedure of cancellation.

4.1 Starting points for participation of a company

Based on the client profile, the tax service provider decides which companies are considered suitable for participation. In doing so, the tax service provider, in any event, takes the following into account:
- The tax service provider has sufficient positive knowledge of the client (the company).
- The company has its administration sufficiently in order.
- The tax service provider carries out enough activities on behalf of the company to be able to guarantee the acceptability of the tax return.
- The entrepreneur endorses the principles of horizontal monitoring (see paragraph 1.1)
- The entrepreneur does not belong to one of the excluded categories (see paragraph 1.4)

The tax service provider approaches the entrepreneur and asks whether he wants to participate in horizontal monitoring. If the entrepreneur wishes to participate in horizontal monitoring, this is then laid down in an alignment agreement. This is an agreement between the tax service provider and his client. The alignment agreement contains at least the following:
- The entrepreneur wishes to enter into a relationship with the Netherlands Tax and Customs Administration on the basis of trust, understanding and transparency.
- The entrepreneur shall supply the information needed to prepare an acceptable compliance agreement tax return in time, accurately and completely.
- The entrepreneur shall pay the payable tax correctly, in time and in full.
- The entrepreneur authorises the tax service provider for representation in the collection of taxes (See Section 9)

The tax service provider periodically assesses whether the entrepreneur still meets the requirements to participate in horizontal monitoring.
- The tax service provider will, in any event, register the entrepreneur for all:
- Taxes that are included in the compliance agreement.
- Sections of the company.
- Tax returns that are prepared by the tax service provider.

Additionally, the tax service provider may also register the entrepreneur for the taxes for which the tax service provider does not prepare the tax return, provided he carries out enough activities to ensure the acceptability of the tax return filed.

The basic assumption is that also the managing director- major shareholder participates in the compliance agreement with respect to his own tax return. Also the tax returns of the partner of the entrepreneur or the partner of the director/major shareholder and minor children may be included in the compliance agreement. The tax service provider, however, must have carried out activities to ensure the acceptability of the returns.

To table of contents

4.2 Logistics of the application process

The tax service provider applies for the companies wishing to participate in the compliance agreement with the NTCA. In doing so, he completes a standard application and c°ancellation form and submits this application via the relationship manager's standard e-mailbox. See Annex III. The registered entrepreneur may be assigned to a tax office other than the one where the relationship manager is based. The competent tax office of the entrepreneur will remain responsible for that entrepreneur. This also applies to companies who participate in horizontal monitoring. In all instances, the relationship manager provides for timely feedback with the competent tax office.

With respect to the application of companies who are part of a so called taxable unit, all tax numbers of companies falling within this taxable unit must be listed on the form. Therefore, for the benefit of the corporation tax the parent company as well as all subsidiary companies, and for VAT the tax number of the tax unit as well as the tax number of all VAT tax payers belonging to the taxable unit.

4.3 Marginal review

Pursuant to the application of the entrepreneur submitted by the tax service provider, the relationship manager conducts (or has conducted) a marginal assessment of the application. This assessment consists of 3 components that together constitute the marginal review:
- Administrative review
- Global substantive review
- Making working in real-time feasible

The following paragraphs describe the issues requiring attention when carrying out the elements of the marginal review. Following this review, the participating entrepreneur must be registered as a compliance agreement participant in the relevant systems.

The marginal review is concluded within 2 weeks. Within this period, the tax service provider will receive notification of the results of the marginal review.[10] Any points of special importance will be discussed with the tax service provider.

If there are no impediments for participation, the application will be effective within 2 weeks.
All tax returns submitted following this date will be considered to be a compliance agreement return.
The entrepreneur will also receive a confirmation of the registration.

4.3.1 Administrative review

During the administrative review, the application will be checked for completeness and accuracy.
An assessment will also be done to check whether all relations of the registered entrepreneur are correctly recorded in the systems of the Netherlands Tax and Customs Administration.

The administrative review will also be used to assess to which taxpayer segment the entrepreneur belongs. When, on behalf of a company who belongs to the segment of large business, an application has been made to participate in horizontal monitoring, the relationship manager then contacts the client coordinator of this company. See Section 11 for information about participating in a tax service provider compliance agreement for a company that belongs to the segment of large business.

10 For companies who fall within the segment of large business Companies other arrangements apply with respect to the feedback. See Section 11.

4.3.2 Global substantive review

The global substantive review is used to assess the client history based on relevant signs, such as:

- Findings from client contacts and monitoring activities.
- Signs of fraud.
  In the event of such signs, the fraud coordinator must *first* be consulted.
- Payment arrears.
  In the event of arrears in payment, the tax collector must be consulted to check whether there is an unwillingness to pay.

There may be no substantive impediments to participation in horizontal monitoring.

4.3.3 Making working in real-time feasible

Open tax issues must first be concluded to make working in real-time feasible. NTCA makes a distinction between open processes, for instance audit, tax return and objection, and treatment plans for the future.

Open processes

The open processes are usually referred to as 'inspection assignments'. These inspection assignments can be divided in 2 phases: cases yet to be assigned to an inspector) and already in process.

The open processes that are not yet assigned to an inspector, must be assessed upon relevance. If these are no (longer) relevant, the cases may be cancelled; with a note explaining why the case has lost its relevance. Where possible, relevant open processes must be settled more quickly.

When an open process has been assigned, the relationship manager will consult with the inspector. Where possible, the inspection will be sped up.

If it is not possible to finish the inspection before concluding the marginal review, the relationship manager will then immediately contact the tax service provider to discuss the consequences of the open inspection.

Alerts

Alerts include monitoring actions and risks that have been entered in the systems. These are usually often referred to as 'inspection intentions'. These alerts must be assessed on relevance. The relevant alerts must be carried out as soon as possible. The tax service provider will immediately be notified of this. Where possible, the tax service provider will process the alert in the tax return. When an alert has lost its relevance or is no longer applicable, it may be deleted, provided with an explanatory note as to why it has lost its relevance.

4.4 Cancellation

When the registered company no longer can or wants to participate in horizontal monitoring, or when the entrepreneur switches to another tax service provider, this company must then be signed out. The tax service provider reports to the NTCA that the company no longer participates. He uses the application and cancellation form and sends this to the relationship manager's standard emailbox. (See Annex III). The relationship manager sees to it that this is processed in the appropriate systems.

There are various situations that result in a cancellation. A number of situations will be outlined below.

Cancellation by the entrepreneur or by the tax service provider
The entrepreneur is no longer able or willing to participate. From the date of the cancellation, any new tax returns to be filed will no longer be compliance agreement tax returns. The tax service provider arranges the cancellation.

Switching to another tax service provider
An entrepreneur may decide to transfer to another tax service provider. In that case, the registration of the entrepreneur with the former tax service provider must first be cancelled, even if the entrepreneur transfers to an tax service provider who has also concluded a compliance agreement. The tax returns that are filed following the date of cancellation are no longer compliance agreement tax returns. The new tax service provider may apply for participation in horizontal monitoring on behalf of the entrepreneur, after signing a new alignment agreement.

Dissolution or merger of the company
When a company ceases to exist or merges, the participation in horizontal monitoring ends on the date on which the company was dissolved. The tax returns that see to the period up to and including the date on which the company was dissolved may still be filed under the compliance agreement, provided the tax service provider has carried out sufficient activities for the acceptable return. The tax service provider arranges the cancellation after having processed the final tax return.

Bankruptcy
In the event of a bankruptcy, the curator will act on behalf of the company that was declared insolvent. The curator is the only party who is allowed to act as of that moment. It is for this reason that the company declared insolvent can then no longer participate in horizontal monitoring as of the date of insolvency. The tax service provider arranges the cancellation. The tax returns filed following the date of insolvency are no longer compliance agreement tax returns.

Death
In the event of death an individual, tailor-made approach is taken. The tax service provider makes arrangements with the relationship manager about the date of cancellation. In order to determine the date of cancellation, it is important to ascertain to what extent the tax service provider can guarantee the acceptability of the tax return yet to be filed. The final date of cancellation follows the settlement of the last tax return (F-form). The tax service provider arranges the cancellation.

Cancellation by the Netherlands Tax and Customs Administration
There are circumstances that may lead to termination of participation in horizontal monitoring by the NTCA. The basic principle is that the NTCA only cancels in compelling circumstances. The NTCA informs the tax service provider about the cancellation.

To table of contents

5 Preliminary consultations (step 3)

Preliminary consultations are held when the qualification of the facts or of the interpretation or the application of the (tax) law on those facts is not (completely) clear. The main purpose of the preliminary consultations is to give both the company as well as the NTCA more assurance on the tax position. Preliminary consultations are an important element of horizontal monitoring. The preliminary consultations help to reinforce the quality of the tax return. Any differing opinions will be adjusted beforehand between the tax service provider and the NTCA. Simultaneously, the preliminary consultations contribute to reinforcing the relationship. This increases trust: Preliminary consultations provide insight to all parties into each other's professionalism and intentions as well as on the quality of products and services. Preliminary consultations also provide input to meta-supervision.

Preliminary consultations are held in real time whenever possible and in any case before or no later than the time of filing the tax return. Preliminary consultations are held about relevant tax issues that may result or have resulted in a difference in points of views between the tax service provider and the NTCA, due to for example a difference in the interpretation of facts or in the interpretation of the law. Within this context the term 'relevant' has both a quantitative and qualitative meaning as it refers to both the nature and the financial scope and complexity of the issue. The starting point for requesting preliminary consultations is the estimation by the tax service provider that the NTCA may adopt a different position. In specifying this criterion, the NTCA in effect requests the tax service provider to view the situation from the Administration's perspective.

Before applying for preliminary consultations, the tax service provider will need to seek advice from his own tax experts.

Also, in some cases, even if the tax position in itself is sufficiently clear, preliminary consultations may still be sought, for instance when there is a major interest at stake for the entrepreneur. In situations such as these the preliminary consultations may then offer the entrepreneur certainty.

All preliminary consultations are about actual cases. The tax service provider actively provides insight into all relevant facts, viewpoints and his opinion on legal consequences.

In working together, the tax service provider and the NTCA will develop a better view of the topics for which preliminary consultations are necessary. This is also an element of the learning cycle. During the preliminary consultations, the NTCA will make arrangements with the tax service provider about a practical and efficient design, for instance in situations in which the same issue applies to several companies. Making these agreements avoids the need to discuss the same case on a number of occasions.

When the tax service provider supplies information pertaining to the preliminary consultations, the NTCA relies on the presented facts and circumstances. The NTCA may, however, request further information should the Administration consider such to be necessary in order to assess the case. When this occurs, the inspector of the preliminary consultations will inform the relationship manager.

The NTCA takes into account the tax service provider's perspective as well as the perspective of the entrepreneur. The question is whether the proposed solution is acceptable and is permitted by laws and regulations. The tax service provider may thus, in taking a view on the tax issues in a case, opt for the most favourable tax route for the entrepreneur in compliance with the customary limits.

It may happen that the tax service provider and the NTCA cannot reach an agreement. (see paragraph 5.1)

The tax service provider sends the request in written form and substantiated to the relationship manager. The basic principle is that the preliminary consultations are held by the competent tax office of the company in question. If the preliminary consultations relate to a company within the same tax office as that of the relationship manager, the relationship manager will organise the preliminary consultation at that office. When the preliminary consultations relate to an entrepreneur whose tax affairs with are dealt with by another office of the NTCA, the relationship manager will contact his colleague-relationship manager in that other office.

The NTCA expects the tax service provider to timely submit his views for the preliminary consultations. The NTCA is committed to responding quickly to requests for preliminary consultations and to formulate its position in clear terms. The NTCA takes the interests of the tax service provider and of the entrepreneur into account as well as on the complexity of the request. The relationship manager monitors the process and progress of the preliminary consultations. When it is not possible to give a quick substantive response to a question, the relationship manager will discuss the process with the tax service provider. For a further explanation, see Annex I, detailing the service level.

5.1 Agree to disagree

It is possible that the NTCA and the tax service provider cannot reach an agreement about the application of a legal rule or the legal interpretation of the facts. They will then *agree to disagree*. The tax service provider and the entrepreneur reserve the right to take their own positions. As a rule, an agree-to-disagree-situation will be followed by objection and appeal proceedings. The objection and appeal proceedings are governed by the applicable rules.

As a base, the preliminary consultations will have revealed all relevant facts and circumstances, whereby as a result only the application of a legal rule, the tax interpretation, or the evaluation of the facts remain an issue.

The tax return that is submitted in an agree-to-disagree situation, must be recognisable as such in the systems of the NTCA. The manner in which the tax service provider must indicate this upon filing the tax return, is specified in the following Section.

To table of contents

6 Filing and processing the tax return (step 4)

In principle, the NTCA will process filed compliance agreement tax returns immediately (*no touch*). Exceptions to this immediate processing include:
- Technical shortcomings and inconsistencies
- Unacceptable tax return (based on risk selection: improbability that the tax return is correct).
- Agree to disagree-situation
- Randomly selected audit of tax return (See Section 7)

6.1 Technical shortcomings and inconsistencies

If a return is not technically consistent, the IT-systems of the NTCA cannot process it. Often this is because of an error. Coordination with the tax service provider will then take place as soon as possible in order to fix this error.

6.2 Unacceptable tax return

If a tax return contains information that cannot be accurate, an apparent error, it will be rejected by the system. When this occurs, the relationship manager will contact the tax service provider. The relationship manager makes arrangements about the way in which the tax service provider can remedy any errors in the tax return (See Section 10).

Agree to disagree

As set out in paragraph 5.1, the tax return that resulted in an agree-to-disagree situation must be made identifiable as such within the systems of the NTCA.

An agree-to-disagree situation necessitates a legal basis for appeal to the tax court. A rejection by the NTCA of the objection offers this possibility. There is a difference in the process of making self-assessment taxes recognisable and making assessment taxes recognisable. This process is outlined below.

6.2.1 Making corporation tax returns and income tax returns recognisable

In making corporation tax and income tax returns recognisable, the following steps may be distinguished:
- As soon as it is clear that consensus has not been reached, the relationship manager inserts an alert in the systems. This will prevent the tax assessment from automatically being imposed.
- The tax service provider files the tax return in accordance with entrepreneur's position.
- The tax return sets out, by means of yes/no questions that it contains an agree-to-disagree situation.
- The tax assessment is based upon the NTCA's position (and therefore differs from the tax return)
- The tax service provider objects to this assessment

6.2.2 Making VAT returns and payroll tax returns recognisable

Making VAT tax returns and payroll tax returns recognisable, may be distinguished in the following steps:
- As soon as it is clear that consensus has not been reached, the relationship manager makes a note of it in the systems.
- The tax service provider files the tax return in accordance with the NTCA's position.
- The tax service provider objects to the tax return (own return).

As the tax service provider files the tax return in accordance with the NTCA's position, repetitive, periodic assessments with adjustments (including default fines and administrative costs) are avoided.

To table of contents

7 Randomly selected audits (step 5)

By auditing at random selected tax returns, information is gained about the quality of the compliance agreement- tax returns and the tax service provider's quality assurance system. These findings contribute towards better understanding the performance of horizontal monitoring as a whole. This step in meta-supervision takes a substantive look at the acceptability of the compliance agreement- tax return.

This is carried out using the infrastructure of the annual cycle of random audits for the SME segment. This is a random, representative and stratified sample[11] of all SME's[12]. No distinction is made between a company participating or a company not participating in horizontal monitoring at the time of the sample. Only after the sampling has taken place it will be clear how many SME's who participate in horizontal monitoring have been selected. It is not allowed to carry out random audits apart from this sampling.

Horizontal monitoring means real-time working as much as possible. This means that "fresh" tax returns are included. The audit starts as soon as the first horizontal monitoring income or corporate tax return under the compliance agreement has been received. Upon receipt of this tax return at the NTCA, the tax service provider and the entrepreneur will be notified of the audit as soon as possible. Compliance agreement- tax returns selected in the random sample are audited as quickly as possible. Also see Annex I.

The audit assignment of all randomly selected SME's is the same, namely initiating a full audit for all taxes. All these audits are executed in conformity with Dutch Audit Approach. This means that checking the financial records of the entrepreneur also takes part of the audit. In carrying out the audit, the entrepreneur will inconvenienced as little as possible.

The initial phase of the audit is to gain an insight in the company and to draw up an audit plan. This 1st phase will always include a meeting with the entrepreneur.

In drawing up the audit plan, the NTCA will rely on the activities already carried out by the tax service provider for as much as is possible. To this end, the client file of the tax service provider is consulted among other things. The audit plan lists which activities still need to be carried out in order to determine the acceptability of the tax returns. The audit plan is shared and discussed with the tax service provider.

The conclusions of the audit are discussed with both the tax service provider and the entrepreneur. The relationship manager will be present for this meeting. The audit is concluded with a report.

The conclusions of the audit provide information about the tax service provider's quality assurance system. The relationship manager will discuss these findings with the tax service provider for the benefit of the learning cycle.

11 The population of the sample is divided into sub-populations in similar clusters (strata). A random sample is taken from each cluster. This sample is merged into one large sample, the stratified sample.

12 The Netherlands Tax and Customs Administration understands the entity to be a combination of business units, including majority shareholders/directors, partners, (fellow) associates, holding companies and operating companies, which are treated as a whole for tax purposes.

To table of contents

8 Monitoring and evaluation of the compliance agreement (step 6)

This section outlines the monitoring and evaluation of the compliance agreement. The following points are addressed: Changed circumstances during the term and the termination of the compliance agreement.

8.1 Monitoring and evaluation

The functioning of compliance agreements is monitored. The information for the monitoring process derives from steps 1- 5 of the horizontal monitoring. Also administrative information is collected with respect to the compliance agreement, for example alerts from IT-systems, frequency of preliminary consultations, processing times. Information about the effectiveness of the quality assurance system of the tax service provider may also stem from regular supervision. This information may also be used for monitoring.

It is important to both the tax service provider and to the NTCA to periodically exchange mutual experiences and to deepen the learning cycle. This is done during the evaluation meeting.

The evaluation meeting will be held with the management of the tax service provider. A representative of the SME directorate's management will take part in this meeting on behalf of the NTCA. The evaluation takes place at least once a year. The relationship manager is responsible for organising the evaluation.

The following topics are discussed during the evaluation:
- Making explicit agreements on the results to be achieved, for example the number of participating companies.
- Making explicit agreements on the process, the agenda and the timing of interim evaluations.
- Sharing the information that resulted from monitoring.
- Analysing the collected data and jointly identifying points of improvement.
- Further developing the learning cycle, recommendations from the evaluation and the arrangements for both parties to carry out the interim evaluations.
- Sharing mutual experiences and, where necessary, agree to further agreements.

Minutes will be taken of the evaluation. This report is shared between the parties. The relationship manager will make sure that this report will be documented in the appropriate IT-system.

8.2 Changes in circumstances

Circumstances may change during the term of the compliance agreement. For the NTCA, changes may occur as a result of changes in policy and changes in the organisation.

For the tax service provider, changes may occur due to changes in management or in shareholders, changes in the organisation, for example mergers, acquisitions and unbundling, and the structure.

Both parties may address such changes during the evaluation of the compliance agreement or during other opportunities. They will then also review the consequences for the compliance agreement. When the changes are fundamental, it may then be worthwhile to discuss the principles of the compliance agreement again and to reconfirm them.

If the director of the tax service provider's office changes and a new director is appointed, there is no need to conclude a new compliance agreement, even if the former director was the one who initially signed the compliance agreement (the former director has signed on behalf of the office of the tax service provider). It is, however, customary, to have a meeting with the new director on the mutual expectations pertaining to horizontal monitoring and on the 'tone at the top'.

8.3 Terminating a compliance agreement

A compliance agreement has no end date. It will remain valid until either of the parties wishes to terminate the compliance agreement. The evaluation or changed circumstances may give cause to terminate the compliance agreement. In case a party wishes to withdraw from the compliance agreement, the party that wishes to terminate the compliance agreement, gives advance notice in writing and states his reasons. If one of the parties so wishes, a meeting will then take place. In this instance, the relationship manager will always consult with management and tax experts. Depending on the size of the tax service provider and the reasons for termination, coordination will take place with the SME Directorate's management.

Except for serious reasons, the NTCA will not suspend or withdraw from a compliance agreement. The general principles of good governance and the contractual good faith will be taken into account. Termination is possible only once difficulties have been discussed with the tax service provider and the tax service provider has been offered an opportunity to resolve the problems.

When the compliance agreement is actually being terminated, the relationship manager arranges the cancellation of the compliance agreement in the IT-systems. As a result, all tax returns of the participating companies that are received after the end date will no longer be processed as compliance agreement- tax returns. The tax service provider informs the registered companies of the termination of the compliance agreement and the consequences thereof.

To table of contents

9 Collection

Participation in horizontal monitoring via a tax service provider compliance agreement not only comprises submitting an acceptable tax return, it also pertains to the process of a correct, timely, and full payment of taxes. By participating in horizontal monitoring, the entrepreneur not only signs for his willingness to file an acceptable return, but also for his willingness to pay the correct amount in full and in time.

The entrepreneur is responsible for the payable taxes to the paid in time and in full. At the NTCA, the tax collector is involved in cases of companies that do not meet their payment obligations. To promote timely payments, the tax collector plays a pro-active part.

9.1 Collection as part of the horizontal monitoring process

In horizontal monitoring TSP, the Netherlands Tax and Customs Administration relies on the work that the tax service provider carries out on behalf of the entrepreneur. The tax service provider is mindful of the payment behaviour of its clients and of possible future liquidity issues.

The assignment and proxy of the tax service provider must, within the scope of horizontal monitoring, explicitly extend to representing the entrepreneur in tax collection. The fact that the scope of the authorisation also includes tax collection, is explicitly expressed in the alignment agreement.[13]

Tax collection as well as the aspects of collection are involved in all steps of horizontal monitoring. It starts with the application by the tax service provider, the marginal review and the preliminary consultations about (tax) positions that have been adopted or that are to be adopted. For this reason it will be necessary to be alert to potential collection consequences at an early stage and to call in the necessary (collection) expertise in good time in the decision-making process.

9.1.1 Mutual expectations

The NTCA expects the entrepreneur and the tax service provider to timely report any payment difficulties. The entrepreneur or the tax service provider substantiates requests with all the relevant facts and supports requests with realistic expectations. The NTCA acts adequately and proportionately in response to this information. Participation in horizontal monitoring will be taken into account as favourable preliminary information in the Administration’s response.

Additionally, there is the possibility to enter into early consultations with regard to recovery measures. During these early consultations, the entrepreneur is entitled to a clear position from NTCA.

The tax service provider submits the written request, with reasons, to the relationship manager.

Role of the tax collector

If liquidity issues have been reported, the tax collector will respond in an adequate manner, in conformity with the presented service level (See Annex I). Within the possibilities permitted by legislation and regulations, the tax collector takes a constructive approach. The tax collector has a positive basic attitude with the aim of supporting (timely) payment. In this approach, the tax collector takes into account the interests of the entrepreneur.

A solution will be found together with the tax service provider, appropriate within the context of policy and laws and regulations.

13 This is stipulated effective on the publication of this Guide. Entrepreneurs who have signed the alignment agreement before this date must sign a separate authorisation or renewed alignment agreement in order to make use of the service level.

In case the tax service provider or the entrepreneur submits information pertaining to liquidity issues, the NTCA will rely on the presented facts and circumstances, unless the information available indicates otherwise. NTCA shall not conduct a supplementary audit into the accuracy of the information provided without cause for it.

Role of the tax service provider

The activities carried out by the tax service provider on behalf of its clients will vary for each assignment. With respect to collection, the tax service provider has a different role and responsibility as opposed to with respect to the acceptable return. The tax service provider cannot be held responsible for the actual payment of the taxes payable. The tax service provider can, however, fulfil a positive role in supporting timely payment of the tax payable by the entrepreneur. It goes without saying, that the tax service provider may also play an active part in timely reporting any liquidity problems.

Role of the entrepreneur

The responsibility for timely payment of the tax payable remains at all times with the entrepreneur. If timely payment is not possible, either the entrepreneur or the tax service provider will report these (temporary) payment problems to the NTCA at the earliest possible stage. The entrepreneur shall be transparent and reliable in the expectations and facts presented by the entrepreneur.

Role of the relationship manager.

The relationship manager is the contact person for the tax service provider.

In the event that the relationship manager receives any signals pertaining to payment problems or liquidity issues of the entrepreneur, he will immediately discuss this with the tax collector. The relationship manager ensures that the internal alerts will also reach the tax collector.

The relationship manager monitors the process. He will remain responsible for a quick response. When it is not possible to give a quick substantive response to a question, the relationship manager will discuss the process with the tax service provider. For a further explanation, please see Annex I, detailing of the service level.

10 Errors and fines

It may become clear at various stages during the course of horizontal monitoring that filed tax returns contain errors.

The following questions play a role in the approach to errors:
– What was the cause of the error?
– How will the error be rectified?
– Should a fine be imposed and, if so, which?

This Section explains the approach in established errors and which fines may be in place.

10.1 Errors

Causes
The NTCA generally assumes errors are made inadvertently and not intentionally. This assumption also applies in horizontal monitoring. The relationship manager therefore discusses the error with the tax service provider. This requires an open and constructive attitude.

In discussing the possible causes of the error, the following questions must be answered:
– Where did the error arise: the entrepreneur or the tax service provider?
– How did the error occur?
– Was the error a one-off event or structural in nature?
– Which actions haven been undertaken in response to the error?

The principles of responsive regulation are leading in the follow-up. Measures implemented by the NTCA are in line with the nature and scope of the error and the underlying motive.

Rectifying the error
All identified errors must be rectified. In rectifying the errors, action will be taken in conformity with the usual principles.

As a general rule, the tax service provider will rectify the errors. Depending on the nature of the error, a decision needs to be made whether rectification needs to take place in a present tax return or in a future tax return.

When errors have been found, the tax service provider reviews whether modifications to the quality assurance system are required to prevent their recurrence. Of primary importance is the fact that the tax service provider takes measures to prevent the recurrence of this error.

When an error has been identified, the question to be considered is whether tax service provider must take action to trace and rectify any (possible) errors made in the past. The following situations may be distinguished. First, it may be that in discovering the error it instantly becomes apparent that the same error was made in previous tax returns submitted on behalf of the same company. This is a known error. A reasonable estimation of the extent of the error is then made in these. The activities that the tax service provider may be expected to carry out in order to determine the extent of the error more precisely, increase as the established error represents a larger importance. It may also be unclear whether any previous tax returns from earlier periods contain errors. The need to examine tax returns for earlier periods depends on the severity and the degree of culpability.

In those cases, the relationship manager will coordinate internally with the legal affairs department and with the tax service provider.

10.2 Fines

The question whether a default fine or an offence fine needs to be imposed is specified in the Administrative Fines (Tax and Customs Administration) Decree (hereinafter referred to as BBBB). The operation of this Decree is no different for companies who participate in horizontal monitoring than it would be for companies who do not participate in horizontal monitoring.

Fines can be imposed only when an error has been made and the error was due to culpable conduct on the part of the entrepreneur. Imposing a fine and the amount of the fine depends in each situation on the specific facts and circumstances. The appropriate amount of the fine differs in each situation.

The cause and the degree of culpability will be viewed, together with the tax service provider.

In accordance with the BBBB, a constructive approach of the entrepreneur after discovering the error may be taken into account when deciding upon the appropriate amount of the fine. Active participation in horizontal monitoring and a positive attitude to the rectification and prevention of errors are relevant factors.

11 Concurrent compliance agreements

The NTCA concludes various types of compliance agreements:
1. Tax service provider compliance agreement
2. Compliance agreements with sectoral organisations
3. Individual compliance agreements with large business (LB)

A company can participate both in a tax service provider compliance agreement, a sectoral compliance agreement or in an individual compliance agreement, all at the same time. In principle, concurrent compliance agreements are not a problem. The various compliance agreements exist alongside each other and each in their own field frame the concept of horizontalisation.

11.1 Concurrence with sectoral compliance agreement

Forms of cooperation with sectoral organisations are based upon mutual trust, understanding and transparency. The sectoral compliance agreements mostly see to specified tax-related issues that can be solved for an entire industry. Organisations can take part in these sectoral compliance agreements without an explicit statement of their participation. Concurrence of a tax service provider compliance agreement and a sectoral compliance agreement is not a problem area. Quite the opposite, the specific substantive agreements made under a sectoral compliance agreement provide the basis (in part) for filing acceptable returns. This in turn reduces the need for preliminary consultations.

11.2 Participation of large businesses in a tax service provider compliance agreement

Horizontal monitoring with tax service providers is specifically intended for companies within the SME segment. The companies that have been signed up by the tax service providers may, however, also fall inside the competence of the Large Business (LB) Directorate. This Directorate applies a policy of individual treatment.

Every LB can participate in a tax service provider compliance agreement. The NTCA endeavours to implement horizontal monitoring for the entire entity. The company is given the choice to shape this by either concluding an individual compliance agreement or by participating in a tax service provider compliance agreement, or both at the same time. Important considerations in making a choice depend on the initiative (taking it oneself or preferring to leave this up to the tax service provider). Knowledge may be a factor, although costs may also play a role.

The following basic principles apply to large business participating in a tax service provider compliance agreement:
- The monitoring team of the Netherlands Tax and Customs Administration / Large Businesses, hereafter referred as the LB monitoring team, remains responsible for carrying out the (individual) treatment of the LB that participates in a tax service provider compliance agreement. In essence, this approach does not differ from the approach towards companies with an individual compliance agreement.
- With respect to requirements imposed on acceptable returns, it makes no difference whether it is a LB participating in a tax service provider agreement or whether it is a LB that concludes an individual compliance agreement.
- The LB monitoring team conducts the preliminary consultations on specific issues relating to the relevant organisation.
- The level of service as set out in Annex I does not apply to the company within the LB segment and that participates in horizontal monitoring.

The procedure pertaining to the application and the client management of a LB differs from the procedure of companies within the SME segment. In such cases, for each application of a LB, consultations are held with all parties concerned, including the LB.

To table of contents

Application
When the application of a company shows that this is a LB, the relationship manager notifies the LB monitoring team. The LB monitoring team then schedules a meeting with the company and the tax service provider. This meeting addresses the following subjects:
- The client profile
- The scope of the tax service provider compliance agreement
- The expectations regarding the tax service provider and the company respectively
- The course of future client treatment

During this meeting, the LB monitoring team, the company as well as the tax service provider jointly establish which parts of the entity are covered by the tax service provider compliance agreement and which tax types are covered by the compliance agreement. When one element of the entity does not yet fall within horizontal monitoring, the LB monitoring team will discuss whether, and if so, how the company wishes to further shape horizontalisation. The NTCA endeavours to bring the entire entity under horizontal monitoring. The results of these consultations are fed back to the relationship manager.

Supervision
Large businesses are not included the SME sample (random audits) nor do these companies therefore fall within the scope of meta-supervision exercised by the SME Directorate. The LB monitoring team schedules the frequency of the adjusted monitoring. In principle, this applies to both a LB that participates under a tax service provider compliance agreement as well to a similar company with an individual compliance agreement. The strategic processing plan includes the favourable preliminary information of the application under the tax service provider compliance agreement. The LB monitoring team informs the company and the tax service provider of the strategic treatment plan insofar as this pertains to the registered company. When exercising its supervision the LB monitoring team works in accordance with the agreements laid down in the tax service provider compliance agreement. This means that the activities that take place within the context of supervision, primarily adjust to the activities that the company or the tax service provider have already carried out or have yet to carry out. A comparable level of activities of the company and external specialists, both under the tax service provider compliance agreement as well as under the individual compliance agreement, must eventually lead to the same adjustments in supervision.

Contact with the LB monitoring team
A correct and timely exchange of experiences and other information between the relationship manager and the LB monitoring team is essential in optimally adjusting supervision. This means that the LB monitoring team reports all matters relevant to the compliance agreement to the relationship manager. This could for example involve observations during the preliminary consultations, the intended monitoring activities and the results thereof. The relationship manager assesses these findings and considers which information this has yielded about the tax service provider's quality assurance system.

Conversely, the relationship manager informs the LB monitoring team about any relevant points of attention that resulted from meta-supervision so that the monitoring team can take these into account in its monitoring strategy.

Please be referred to the Guide Large Businesses for a detailed explanation of client treatment within the segment of Large Businesses.[14]

14 This guide is published at www.belastingdienst.nl

To table of contents

Annex I
Detailing of the service level: Rapid certainty

Annex to the Guide Horizontal Monitoring Tax Service Providers
Annex version: November 2016

The NTCA provides a service level in horizontal monitoring. These are both internal as well as external agreements about a fixed point of contact, rapid certainty and adjusted monitoring. Rapid certainty means, among other things, realising a processing time that is as short as possible. This part of the service level is further outlined below.

Providing rapid certainty applies in the following situations:
– Processing the marginal review
– Open processes at the moment of application of the client to be brought under horizontal monitoring
– Preliminary consultations
– Processing tax returns
– Randomly selected tax audits within the context of meta-supervision

Rapid certainty in the preliminary consultations[15]
The basic principle in preliminary consultations is trusting that facts are presented correctly and completely. The tax service provider and the entrepreneur may count on a quick inspection by the NTCA. The interests of the tax service provider, the entrepreneur as well as the nature and the complexity of the request are taken into account by the NTCA.

The NTCA aims to process the request within two weeks. If this term cannot be met, the relationship manager will inform the tax service provider about the reasons for the delay, who is processing the request and what the expected end date is.

Rapid certainty in randomly selected audits within the framework of meta-supervision
The randomly selected audit is announced within 1 month following the receipt of the tax return. The audit starts within two months following the receipt of the tax return in question. The aim is to have a three month processing time following the announcement date of the tax audit.

Depending on the interests of the tax service provider and of the entrepreneur as well as on the complexity of the audit, a longer period of time may be deemed desirable or necessary. In those cases, the entrepreneur and the tax service provider are informed about this and they will be given an indication of the new expected lead times.

Rapid certainty in the collection
Any reports on payment problems and requests for payment schedules are processed as quickly as possible for companies participating in horizontal monitoring. Within the possibilities permitted by legislation and regulations, the aim is to process all requests quickly and adequately in such a way as to do justice to the interests of both the entrepreneur and the NTCA. In case of any delays in processing the requests, the relationship manager will inform the tax service provider about the reasons for the delay, who is processing the request and what the expected end date is.

15 Where it states preliminary consultations, this refers to a request for preliminary consultations or the application of a decision, insofar as such is submitted via the relationship manager.

To table of contents

Annex II
Elaboration of the quality assurance system

Annex to the Guide Horizontal Monitoring Tax Service Providers
Annex version: February 2016

The examination conducted by the NTCA with respect to an individual tax service provider's compliance agreement focuses on the design and the implementation of the benchmarks of the quality assurance system that are important to the NTCA. A number of elements play an important role in a tax service provider's quality assurance system. These elements are revealed by the literature and general knowledge of control systems the NTCA adopts these elements. The quality assurance system of a professional tax service provider consists of rules and procedures involving:
- The tax service provider management's responsibility for quality.
- Internal professional ethics standards.
- The acceptance of clients and the continuation of contracts with clients.
- (Maintaining) professionals skills and expertise.
- The quality assurance system.
- Risk management policy.
- Work programmes.
- Documentation and files.
- Consultations with colleagues.
- Method of review.
- Provision of advice.
- Legal affairs department.
- Quality control.

The tax service provider's responsibility for quality
The rules of conduct and procedures established by management, focus on the recognition that quality is essential in executing assignments, including filing compliance agreement tax returns. The responsibility for the quality assurance system lies with the management, the procedures and guidelines are known internally, are implemented and are kept up-to-date. The management also ensures that compliance with the procedures and guidelines are monitored.

Internal professional ethics standards
The rules of conduct and procedures established by management, focus on safeguarding that the requirements of professional ethics is met in day-today practice, including integrity, honesty, objectivity, independence and due care.

The management ensures that the standards are kept up to date and that compliance with the standards is supervised.

The acceptance of clients and the continuation of contracts with clients
The tax service provider ensures that there are procedures and policies in place in accepting and continuing relations and assignments, as well as that these procedures and policies are kept up to date and are complied with. The integrity of the client, the available expertise of the office and the capacity of the tax service provider are importance components of this element. The integrity of the relationship is assessed by investigating:
- The identity of the client.
- The (tax) reputation of the client and the client's most important business relations.
- The nature of the client's operations and the corporate (tax) culture.
- Indications of (tax) fraud.
- The client's reason for the selection of the tax service provider.

(Maintaining) professionals skills and expertise
The tax service provider ensures that procedures and rules of conduct have been implemented to provide assurances for the appropriate expertise and competence of the tax service provider. Elements include recruitment, study programme, expertise and performance assessment, career development and remuneration.

The management ensures that the standards are kept up to date and that compliance with the standards is supervised.

The quality assurance system
The office's management ensures that the commissions comply with the requirements imposed by the legislation, regulations and professional standards. This system usually includes the following elements:

a Client acceptance (acceptance policy) and commission acceptance:
- Identification, based on the Netherlands Money Laundering and Terrorism Financing Prevention Act (WWFT).
- Integrity assessment
- Work scheduling
- Cost calculation
- Confirmation of commissions
- Termination of commissions

b Risk policy:
- Criteria for (supplementary) investigations following indications of fraud, money laundering or terrorism financing.
- Internal notification of the results of investigations.
- WWFT reports (the Netherlands Money Laundering and Terrorism Financing Prevention Act).

c Work programmes by type of commission, such as:
- The preparation of the annual accounts, audit.
- The provision of accounts services.
- The preparation of tax returns.
- The auditing of tax returns.
- Assurance (including tax assurance).
- The provision of tax advice
- The provision of wages advice.
- Corporate finance.
- Payroll.
- International.

d Creation of dossiers, with the following customary subdivisions:
- Permanent
- Correspondence
- Tax return
- Reports
- Advice
- Records
- Salary

e Collegial consultations and reviews:
- Collegial consultations on changes in consultant.
- Tax return route cards.
- Issues for attention, compiler of the tax return.
- Assessment of the work by the team leader.
- Screening advice and tax return by tax specialist.
- Sending to and meeting with clients.

f Advice
When (tax) advice is given the following measures are then applicable:
- A number of outline solutions.
- Within the demarcations of the legislation and regulations the relevant case law.
- Solution tailored to the specific client's situation.
- Check prior to the actual provision of the advice.

g The existence of a tax affairs department assigned the following duties:
- Knowledge management and policy.
- Layered tax affairs consultative structure.
- Central determination of the tax service provider's standpoint, perception and attitude.
- Tax procedures, reporting (offence) fine, preliminary consultations horizontal monitoring.
- Partner for discussions with NTCA on tax issues transcending individual clients.

Quality control
The tax service provider ensures that procedures and rules of conduct have been implemented to provide assurances that the the quality assurance system is relevant and effective and will continue to be so by constant attention to the evaluation thereof. This evaluation includes an internal inspection (review) of dossiers of completed assignments. The autonomy of this review enhances the trust in the tax service provider's quality chain.

To table of contents

Annex III
Logistics of the application process

Annex to the Guide Horizontal Monitoring Tax Service Providers
Annex version: February 2016

Standard application and cancellation form
The tax service provider uses the standard application and cancellation form as issued by the relationship manager.

PO Box relationship management

Office	PO Box relationship management
Almere	HT.FD.Almere@belastingdienst.nl
Amsterdam	HT.FD.Amsterdam@belastingdienst.nl
Arnhem	HT.FD.Arnhem@belastingdienst.nl
Breda	HT.FD.Breda@belastingdienst.nl
Den Haag	HT.FD.DenHaag@belastingdienst.nl
Doetinchem	HT.FD.Doetinchem@belastingdienst.nl
Eindhoven	HT.FD.Eindhoven@belastingdienst.nl
Emmen	HT.FD.Emmen@belastingdienst.nl
Enschede	HT.FD.Enschede@belastingdienst.nl
Groningen	HT.FD.Groningen@belastingdienst.nl
Hoofddorp	HT.FD.Hoofddorp@belastingdienst.nl
Hoorn	HT.FD.Hoorn@belastingdienst.nl
Leeuwarden	HT.FD.Leeuwarden@belastingdienst.nl
Maastricht	HT.FD.Maastricht@belastingdienst.nl
Middelburg	HT.FD.Middelburg@belastingdienst.nl
Rotterdam	HT.FD.Rotterdam@belastingdienst.nl
Utrecht	HT.FD.Utrecht@belastingdienst.nl
Venlo	HT.FDVenlo@belastingdienst.nl
Zwolle	HT.FD.Zwolle@belastingdienst.nl

To table of contents

Annex IV Standard tax service provider compliance agreement

Annex to the Guide Horizontal Monitoring Tax Service Providers
Annex version: February 2016

The Parties,

[Tax service provider] (hereinafter referred to as 'the office) established at [Place of establishment], represented by ………

and

The Netherlands Tax and Customs Administration,
represented by ………,

agree as follows:

1 **Preamble**

[Name of tax service provider] provides tax returns for companies. The tax returns that are filed in accordance with this compliance agreement are referred to as compliance agreement tax returns.

This compliance agreement lays down the manner in which the parties intend to work with each other.

The parties work together on the basis of trust, understanding and transparency. They endeavour to harmonise their processes in a manner that ensures that the tax returns filed by the tax service provider are acceptable to the Netherlands Tax and Customs Administration. The advance consultations increases the legal certainty for the relevant companies. Parties shall jointly coordinate the procedure for the tax return process, its monitoring process and the way in which consultations with regard to this compliance agreement take place.

This compliance agreement includes tax returns of the participating companies that are carried out by the tax service provider, in any event including the payroll tax returns, the VAT tax returns, the income tax returns and corporation tax returns.

2 **Starting points**

2.1 Rights and obligations pursuant to laws and regulations apply and shall continue to apply without any restrictions to parties and participating companies.

2.2 The parties and participating companies are of the intention to implement the tax regulations in the correct manner.

2.3 An acceptable return is a tax return that complies with the legislation and regulations and is free of material errors.

2.4 The tax service provider and the participating companies shall provide the data underlying the tax return to the Netherlands Tax and Customs Administration for inspection within the framework of laws and regulations, without reticence and without reservation. Documents that serve to highlight the tax position of the taxpayer or consult him thereon do not have to be disclosed. This consideration is also applicable to parts of those documents that contain information of a factual or descriptive nature for that purpose.

2.5 The Netherlands Tax and Customs Administration relies on the professionalism of the tax service provider in implementing and adhering to the procedure, as is indicated in paragraph 3 of this compliance agreement. The tax service provider has a quality assurance system set in place. A periodic review of the quality of the tax service provider processes and products is part of this system. The Netherlands Tax and Customs Administration has taken note of the quality assurance system that has been set in place by the tax service provider as well as of the procedures to be used within the tax service provider pertaining to the assessment of the tax service provider processes.

2.6 The Netherlands Tax and Customs Administration shall determine the final tax assessment as soon as possible after the compliance agreement tax return has been filed with respect to corporation tax or income tax.

2.7 This compliance agreement is primarily intended for the entrepreneurial group of small and medium-sized enterprises. The Netherlands Tax and Customs Administration adopts individual client treatment as a basis for the segment of Large Businesses. When the tax service provider enlists an entrepreneur with the Netherlands Tax and Customs Administration who falls within the scope of individual client treatment, consultations shall then be held between the Netherlands Tax and Customs Administration, the office and the entrepreneur to further discuss participation in this compliance agreement.

3 Procedure

3.1 Accession of companies
Parties have agreed to the fact that there can only be compliance agreement tax returns if the participating entrepreneur declares to the participating tax service provider writing that:
– He wishes to enter into a relationship with the Netherlands Tax and Customs Administration on the basis of trust, understanding and transparency.
– He will submit the information needed to prepare the compliance agreement tax returns to the tax service provider in time, correctly and in full.
– He will pay the payable tax correctly, in time and in full.

3.2 The preparation of compliance agreement tax returns
The tax service provider shall ensure that the compliance agreement tax returns are filed in accordance with the specification in the preamble. Where the tax service provider builds on data and information supplied by clients and/or third parties, the tax service provider has a duty of care regarding the quality of these data and the information, in order to achieve an acceptable return. The activities are recorded in the client files in such a way that any meta-supervision can effectively take place (see Paragraph 4 Monitoring).

3.3 Preliminary consultations
The tax service provider submits relevant (tax) standpoints it has adopted or plans to adopt to the Netherlands Tax and Customs Administration as soon as possible. This involves matters which may result in disagreement with the Netherlands Tax and Customs Administration, a difference in interpretation of facts or in the interpretation of the law for example. The tax service provider actively facilitates the analysis of all facts and circumstances, the positions taken and the (associated) legal consequences.

Following the receipt of the standpoints that have been adopted or that are to be adopted, the Netherlands Tax and Customs Administration will communicate its views on the legal consequences as soon as possible and in consultation with the office in as much as is possible.

3.4 Consultations about the compliance agreement
The Netherlands Tax and Customs Administration, office [name of the office], shall, in the implementation of this compliance agreement, have national control. Office [name of the office] is the first point of contact on behalf of tax service provider.

4 Supervision

Compliance with this compliance agreement is supervised by means of meta-supervision. The purpose of meta-supervision is assessing whether the procedure set out in paragraph 3 of the compliance agreement meets the standards and, if necessary, what it needs to improve this procedure. The Netherlands Tax and Customs Administration is responsible for the organisation of meta-supervision.

The Netherlands Tax and Customs Administration uses meta-supervision to assess the tax return process by auditing randomly selected compliance agreement tax returns according to the principles of the CAB (the Dutch Audit Approach).

When carrying out this assessment, the Netherlands Tax and Customs Administration relies on the work carried out by the tax service provider and the entrepreneur, including the results from the relevant internal quality audits and reviews carried out by the tax service provider. Pursuant to meta-supervision, the Netherlands Tax and Customs Administration may also conduct audits When tax returns audited during the meta-supervision are unacceptable then the cause of the error is examined in consultation with the tax service provider. Depending on the outcome of this analysis, a decision will be made as to which adjustments have to be made in either the tax return that was inspected and/or work processes of the tax service provider and/or the entrepreneur. The tax service provider has the responsibility to improve its own work processes in which misstatements have arisen.

5 Consultation

Parties periodically hold joint consultations to discuss the progress of the handling of (new) tax matters in particularly.

The parties meet at least once a year to evaluate the functioning of the compliance agreement and update the compliance agreement if so required. The updated compliance agreement supersedes the previous compliance agreement.

6 Processing times

This compliance agreement is concluded for an indefinite period of time. The compliance agreement is evaluated periodically by both the tax service provider as well as the Netherlands Tax and Customs Administration. If either party wishes to terminate this compliance agreement, it will first give written notice of this to the other party specifying the reasons. Moreover, the termination will not take place until after a meeting has taken place, should this be the request of either party. Thereafter the compliance agreement may be terminated with immediate effect. As a consequence, the tax returns of the participating companies shall no longer fall within the scope of this compliance agreement.

7 Signature

This compliance agreement comes into immediate force once it has been signed by both parties.

Annex V
Materiality

Annex to the Guide Horizontal Monitoring Tax Service Providers
Annex version: February 2016

This Annex addresses the generally applicable materiality as set out by the Netherlands Tax and Customs Administration as a requirement within the context of the acceptable tax return. Maintaining such a requirement reflects the audit of financial overviews as in line with customary practice within the field of accountancy[16].

The Section starts with an explanation of the relationship between the terms 'materiality' and 'acceptable return', whereby a distinction is made between 'quantitative materiality' and 'qualitative materiality'. The generally applicable materiality table will then be set out and explained with respect to the quantitative aspect of materiality.

Quantitative materiality in relation to acceptable returns
The term 'acceptable tax return' plays an important role within the monitoring process. It concerns the requirements that the NTCA imposes on the tax return in terms of reliability and accuracy from a supervisory perspective. These requirements are incorporated in the Netherlands Tax and Customs Administration's Audit Approach (CAB) and the materiality table enclosed in this Annex.

The term 'acceptable tax return' *does not mean* that the taxpayer can simply omit correcting any errors made in the tax return up to a certain amount. After all, the tax return plays an important role. On the one hand it serves as a basis for the tax inspector to determine the correct assessments (assessment taxes) and on the other hand it serves as a waybill in the payment of the tax return (self-assessment taxes). It is for this reason that the tax return must meet the requirements pursuant to the tax laws and that it must, in principle, be faultless. This also means that a taxpayer must set up the processes necessary for preparing the tax returns within a policy of zero tolerance. Practice shows that, despite the appropriate set-up of the internal management organisation, errors may still be found in the accountability. This is also applicable to tax returns. It is in the economic rationality that not every error in the tax return can and will be found. However, it is important that the total amount of the (potential) errors in the tax returns do not exceed the materiality. If this requirement is met, this then is an acceptable return.

Consequently, materiality serves as an approval limit and acquires its significance from supervision. The supervisory work is organised in such a way that there is a reasonable assurance that the presence of any errors are at least spotted when the maximum expected error-amount exceeds the materiality as approval limit.

Materiality is not a limit below which adjustments are unnecessary. Errors, which are encountered, must be corrected, despite their financial significance.

Quantitative materiality can be expressed as a monetary amount. The Netherlands Tax and Customs Administration has adopted a table for this monetary amount which is enclosed and explained below.

Qualitative materiality in relation to acceptable returns
In addition to quantitative materiality in relation to acceptable returns, 'qualitative materiality' also plays an important role. This is not so much a matter of deciding to which amount errors may not be left undiscovered, as it is in deciding what the significance is of the already established error.

16 The Audit Manual Accountancy Regulations (HRA) sets out the Standards as a basis for assessing the auditor requirements in order to gain a certain degree of reasonable assurance that the financial overviews as a whole do not contain any deviations of materiality as a result of fraud or errors (Additional Audit Instructions and Other Standards, 200 General objectives of the independent auditor, as well as implementing an audit pursuant to the Standards).

To table of contents

Qualitative materiality relates to the nature of the error, in particular to the degree of culpability. Think for example of a situation in which it was established that the errors had been made intentionally, in which there is intent or even fraud. It may also be that the intent or the existence of the accounting system and internal control reveal serious shortcomings, for instance because it failed in putting control measures in place in critical areas. Or because the internal control has been breached with intent, as a result of which the risk of errors has been taken deliberately. The finding of serious errors that have been committed intentionally constitutes an obstacle in approving tax return, even if the financial impact were to be relatively small.

Table for generally prevailing materiality
In determining the materiality amount, the Netherlands Tax and Customs Administration uses the following table in the context described above (amounts in €):

Size of the company			Materiality
0	–	300,000	Turnover x 5%
300,000	–	500,000	15,000
500,000	–	1,000,000	30,000
1,000,000	–	2,200,000	60,000
2,200,000	–	4,400,000	120,000
4,400,000	–	8,800,000	180,000
8,800,000	–	17,500,000	300,000
17,500,000	–	35,000,000	600,000
35,000,000	–	70,000,000	900,000
70,000,000	–	140,000,000	1,500,000
140,000,000	en meer		3,000,000

Notes to the content of the table
The 'size of the company' of a profit company can be based on the Netherlands turnover. The 'size of the organisation' of a non-profit organisation can be based on the amount of the (operational) budget rather than the turnover. If the supervision sees to a part of the entity (for example 1 company), then, in principle, the size of that specific part is taken as the 'size of the organisation'.

The monetary amounts in the 'Materiality' column are expressed in terms of expenditure (thus, where applicable, inclusive of turnover tax). Consequently, the monetary amounts are explicitly not expressed *in* terms of amounts of tax. Where the supervision relates to the taxes themselves, for example the input tax, the amount of expenditure must then be converted to the tax amount in order to determine the materiality. This conversion is carried out using the rate that can be the highest amount applicable to the relevant tax revenue and is rounded up in thousands.[17]

17 Example: for a non-profit organisation with a turnover between € 300,000 and € 500,000 the materiality of VAT euro's amounts to 21/121th of € 15,000 = rounded up € 3,000.

Use of the table

The following is applicable to the use of the table:

- The generally-applicable materiality table applies to the tax audits carried out by the Netherlands Tax and Customs Administration within the framework of horizontal monitoring.
- The generally-applicable materiality table may be waived in the following situations:
  - When the supervision is carried out by the NTCA as part of a national campaign with increasing precision (the so-called ‘zooming in’). In such a case, the size of the organisation, in deviation from the above, is set to the size of the auditee.
  - When the Coordination group Technical Supervision of the Netherlands Tax and Administration has issued a special materiality table regarding the supervision to be carried out.
  - When the supervision exclusively pertains to wage tax and national insurance contributions. In such a case, the size of the organisation, in deviation from the above, is set at the total amount of the payroll.
- In addition to the aforementioned materiality, the Netherlands Tax and Customs Administration also bases the design of its supervision on the following principles:
  - A statistical reliability of 95%.
  - An audit tolerance that equals the materiality and which is not allocated.
  - An expectation of zero errors, which on the basis of the Poisson distribution is equivalent to a reliability factor (R) of 3.

This brochure has been published by
Tax and Customs Administration
February 2016

DV 407 - 1Z*3PL ENG