

➤ **Q: What are tax enforcement measures? Under what circumstances may tax department take enforcement measures?**

A: The tax enforcement measures are the administrative measures taken by the tax department to enforce the taxpayers failing to perform their tax liability or the withholding agents failing to perform their withholding liability in compliance with tax laws to carry out their tax liability or withholding liability according to laws.

Where a taxpayer or withholding agent fails to pay or remit tax within the prescribed time limit, or a tax payment guarantor fails to pay the guaranteed amount of tax within the prescribed time limit, the competent tax department shall order them to pay the tax within a new time limit. In the case of failure to pay the tax within the new time limit, the competent tax department may, upon approval of director of the tax department at or above county level, implement the following mandatory enforcement measures;

- a. Deliver the notice of withholding taxes to the banks or other financial institutions with which the taxpayer or withholding agent has opened an account. Upon receipt of the notice above, the relevant banks or other financial institutions should timely withhold and remit the amount of tax out of its deposits. Where the deposit of the taxpayer or the withholding agent is not enough to pay the tax and loan, the deposit should be withheld first to pay the tax, and then to pay back the loan. In case that the relevant banks or financial institutions are unable to withhold the tax within the time limit, they should notice in written form the competent tax within the time limit, they should notice in written form the competent tax department so that the competent tax department may take other enforcement measures.
- b. Impound, seal up or sell by auction or sale by law the commodities, goods, or other property, the value of which is equivalent to the amount of tax payable, and use the proceeds therefrom to make good the amount of tax payable. When tax department value the commodities, goods or other property impounded or sealed up for payment of tax, it should hand them over to the auction organization set up by law for auction or the commercial enterprise to purchase at market price. The articles prohibited by the state from free sell & buy should be handed over to the relevant units to purchase at the price specified by the state.

At the same time as implementing the mandatory measures, the tax department shall implement the relevant mandatory measures to collect the late payment interest that has not been paid by the taxpayer, withholding agent or tax payment guarantor.

Where the proceeds from auction are more than the sum of the tax payable, the late payment interest, the fines and the charges for storage and auction, the balance shall be returned to the

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party concerned. In case of the proceeds being less than the sum, the competent tax department should recover that part according to laws.

The houses and items necessary for maintaining the life of individuals and for supporting the family members are not included in the scope of tax enforcement measures

The authority of implementing the above tax guaranty and enforcement measures can not be exercised by the unit or individual rather than the statutory tax department.

Where the tax department abuses its power by violating the law in taking tax guaranty measures or tax enforcement measures or by taking improper tax guaranty measures or tax enforcement measures, which lead to losses of the legal rights and interest of taxpayers, withholding agents or tax payment guarantors, the tax department should bear the compensation responsibility.

If the party concerned objects to the tax guaranty measures or tax enforcement measures taken by the tax department, the party concerned may apply for administrative review or appeal to the people's court by law.

Where the payers, guarantors of customs duties on imports and exports fail to pay the duties three months later than the tie limit, the customs may, upon approval of the director of the customs directly under the state general administration of customs or the director of the customs authorized by the state general administration of customs, take the following duty enforcement measures:

- a. Notify in written form their account bank or other financial institutions of deducting the duty from their deposits.
- b. Sell the dutiable goods by law and use the proceeds therefrom to pay the duty payable.
- c. Impound and sell their goods or other property the value of which is equivalent to the amount of duty payable and use the proceeds therefrom to offset the duty payable.

In taking the enforcement measures, the customs shall implement the measures on the late payment interest that has not been paid by the duty payers or guarantors.

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