

LEAFLET

Search in the Offices / Premises of Taxpayers

1. Please ask the investigation officers to present the search warrant; read it carefully to ascertain the following:
 - a) **Court Order:** In the event that the court order is older than six (6) months, it is expired; in such a case, it must not be executed.
 - b) **Order of the Public Prosecutor or of the Tax Investigation Office:** The order must only be issued in case of imminent danger. There must be a plausible justification why there was no time to ask a judge.
2. Legal basis of the **Search Warrant:**
 - a) **§ 103** of the German Code of Criminal Procedure: In such a case, you will be **only a witness** and there are investigations against one of your business partners.
 - b) **§ 102** of the German Code of Criminal Procedure: The **tax investigation office performs investigations against you**. In such a case, you should insist on calling in a (legal / tax) advisor. This telephone call must not be refused to you. However, the search can be started before your advisor comes!
3. Ask the officers to present their ID cards. Take down the names of the officers, or take photos of their ID cards.
4. Be friendly, however, do not provide any comments on the facts and circumstances of the case, i.e. neither as a statement nor in the form of an informal questioning nor in the form of a conversation. This also applies to all members of your family and to all your employees. **Everything you say will be used against you later on.**
5. This applies, in particular, in the event that the investigation officer holds out the prospect of a mitigation or the like.
6. **Conduct during the Search:** Sometimes you can avert the search by leading the officers to the shelf / cabinet with the wanted files and handing over such files. Deliver to the officers those items, which are wanted in accordance with search warrant – however, do not deliver any additional documents and records. Do not voluntarily deliver the wanted files and insist on a seizure.
7. Insist on receiving a copy of the list of the documents, records, items, etc., which were seized. If possible: **Copy or take photos of the seized documents and records!**
8. **After the Search:** You should promptly create a memo from memory and have it countersigned by a member of your family or another witness.

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