



EUROPEAN COMMISSION

DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
International and General Affairs

Inter-institutional relations, coordination, communication and strategic planning

Brussels,

Taxud E2/Sv dv – taxud.e.2(2020)8290475

Mr Nacho Calle
Calle Jesús Goldero, 19, 2º
ES - CP 28045 Madrid

@ .

(by e-mail only)

Dear Mr Calle,

Subject: Your application for access to documents – Ref GestDem No 2020/7427

We refer to your e-mail dated 30 November 2020 in which you make a request for access to documents under the above mentioned reference number.

You make a request for access to:

« Copia de todas las comunicaciones que el Directorate-General for Taxation and Customs Union ha enviado a los Gobiernos de cada Estado miembro para avisar de que no se sancionaría a los países que bajaran el IVA de productos como las mascarillas, tanto en cuanto a importación como en venta al público final, y copia de la respuesta a esas comunicaciones de los Gobiernos de cada Estado miembro. Solicito también copia de todas y cada una de las comunicaciones que el Gobierno de cada estado haya mandado preguntando si se podía reducir el IVA de las mascarillas o alguna cuestión similar, tanto si han sido previas a las comunicaciones del Directorate-General for Taxation and Customs Union como si han sido posteriores. Solicito que sobre todas estas comunicaciones que he solicitado se tenga en cuenta todas las comunicaciones tanto sobre la exención del IVA para la importación de estos productos como todas las comunicaciones sobre la exención del IVA para la venta al consumidor final en cada país de estos productos. »

["Copy of all the communications that the Directorate-General for Taxation and Customs Union has sent to the governments of each member state to advise that countries that lower VAT on products such as masks, both in terms of import and for sale to the final public, would not be penalized, and a copy of the response to these communications from the governments of each member state. I also request a copy of each and every one of the communications that the Government of each state has sent asking if the VAT on masks could be reduced or some similar question, whether they have been prior to the communications from the Directorate-General for Taxation and Customs Union as if they have been later. I request that all communications about the VAT exemption for the importation of these products and all communications about the VAT exemption for sale to the final consumer in

each country of these products be taken into account regarding all these communications that I have requested"]].

With e-mail of 4 January 2021, we have proposed a fair solution to deliver a manageable number of documents. With your e-mail of 14 January, you have clarified that you were particularly interested in the *“Commission letter of 3 April 2020 and the responses of the Member states to that letter. You have clarified that you are interested in documentation about the application of VAT on products such as masks, but not for importation or purchase between countries, but for sale to the final consumer in the country itself. You would be interested in the following ten countries: Germany, France, Italy, Austria, Hungary, Greece, Spain, Poland, Portugal and Ireland”*.

Following your request we have identified the following documents that you will find enclosed herewith:

- “-1) Note to Directors General of the Member States’ and the UK’s customs and tax administrations – VAT treatment of supplies of goods needed to combat the Covid-19 outbreak - [Ares(2020)1923616 – 03/04/2020];*
- 2) annex to the note: COVID-19 – Indicative list of products to be imported duty VAT free – [Ares(2020)1923616 - 03/04/2020];*
- 3) Letter from the Spanish authorities to the Commission dated 6 November 2020 – [Ares(2020)6517609 – 09/11/2020];*
- 4) Reply from the Commission to the Spanish authorities dated 10 November 2020 – [Ares(2020)6567515 – 10/11/2020].”*

Having examined the documents requested under Regulation (EC) No 1049/2001 regarding public access to documents, I am pleased to inform you that the documents can be disclosed.

Document 1 and 2

The letter of 3 April 2020 and its annex is informing the Member States that the Decision C(2020)2146 authorising Member States to grant relief from import duties and VAT exemption on importation of goods needed to combat the effects of the COVID-19 outbreak during 2020 was taken and this letter did not require a reply from the Member States.

The Decision relates to the importation of goods. As concerns the VAT on domestic transactions of masks and medical equipment, we refer to the clarification on the guidelines (mentioned in the letter) which can be found in the Questions and answers-section and the guidance note on the relevant webpage of DG TAXUD: https://ec.europa.eu/taxation_customs/covid-19-taxud-response/covid-19-waiving-vat-and-customs-duties-vital-medical-equipment_en. On this webpage, you will find all information waiving VAT and customs duties on vital medical equipment related to COVID-19.

Document 3 and 4

Document 3 originates from Spain and relates to the domestic transaction of masks. According to Article 4(5) of Regulation No 1049/2001 “A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement”. The Commission has consulted the relevant Member State accordingly and they agreed to the disclosure of their document.

Please note that only Spain submitted a formal request relating the VAT on domestic transactions of masks.

Personal data

The documents to which you have requested access contain personal data (name official, acronym official).

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 2018/1725¹. Pursuant to Article 9(1)(b) of Regulation 2018/1725, 'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

Emer Traynor
Head of Unit

Annexes: as stated above

¹ Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, Official Journal L 205 of 21.11.2018, p. 39.