



EUROPEAN COMMISSION

DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION

The Director-General

Brussels, 23. 08. 2018
Taxud E2/Svdv – taxud.e.2(2018)4498893

Mr Sven Giegold
European Parliament
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(by e-mail and registered mail)

Subject: Your application for access to documents
Ref: GestDem No 2018/3720

Dear Mr Giegold,

We refer to your request dated 12 July 2018, in which you make a request for access to documents, registered on 13 July 2018 under the above-mentioned reference number.

You make a request for access to documents: *"Any statistical information received for the evaluation report from the Commission to the European Parliament and the Council on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation. I would in particular be interested in figures referring to group requests (filed, answered, rejected and average time for responding)"*.

In respect of your request relating to *"any statistical data"*: the complete set of statistical data collected is determined by the implementing regulation 2018/99 (Prior to the regulation, the same information was being collected). The Commission receives the following data from the Member States:

- statistical data for all forms of administrative cooperation, other than mandatory automatic exchange of information, as listed in Annex IX of the implementing regulation 2018/99. This is provided by each Member State in an excel table, containing figures on administrative cooperation that took place in a given calendar year between the reporting Member State and all the others.
- statistical data for mandatory automatic exchange of information under Art.8(1) and 8(3a), as listed in Annex X-XI of the implementing regulation 2018/99, containing general quantitative and qualitative feedback of the information sent. However, the statistical sets of data received by the Commission from the Member States are in a format that is not intended to be read as such without the corresponding technical and functional specifications. The statistical sets of data

received from Member States until 2018 are currently being analysed by the Commission to prepare the report on automatic exchange of information ex Art.8b, to be published by end 2018.

In respect of your specific request relating "*figures referring to group requests (filed, answered, rejected and average time for responding)*": group requests fall under the broader category of the exchange on request under art.5 of the Directive, therefore the statistical data related to them are covered by Annex IX of the implementing regulation 2018/99. Given the growing interest in this type of requests, Member States were asked to provide some statistical data, if available, on group requests made and received in 2017. The request to Member States related to 2017 was the first such request. The information on group requests was collected in the framework of a more extensive IT-based survey/questionnaire on the functioning of the Directive, from where it needs to be retrieved and compiled. Against this background, we consider your request related to group requests (with the exception of those related to the *average time for responding*, which are not collected by the Commission) to be a request for information rather than an access to documents request. That is because the requested information is not contained in an existing document and would involve compiling it from a number of different documents.

In any case, Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC includes a confidentiality of information provision in article 23a - Confidentiality of information:

1. Information communicated to the Commission pursuant to this Directive shall be kept confidential by the Commission in accordance with the provisions applicable to Union authorities and may not be used for any purposes other than those required to determine whether and to what extent Member States comply with this Directive.

2. Information communicated to the Commission by a Member State under Article 23, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. Such transmitted information shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it.

Reports and documents produced by the Commission, referred to in the first subparagraph, may be used by the Member States only for analytical purposes, and shall not be published or made available to any other person or body without the express agreement of the Commission.

Based on this provision, I regret to inform you that your application for access to documents cannot be granted.

We have considered whether partial access could be granted to the documents requested. However, partial access is not possible given the fact that these documents and information are entirely covered by the confidentiality article mentioned above.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled 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
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Brussels

or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,



Stephen Quest

PAULO JOSÉ SANTOS

DIRECTOR TAXUD B