

Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (recast)

CHAPTER II

**EXCHANGE OF INFORMATION ON REQUEST**

*SECTION 1*

***Request for information and for administrative enquiries***

*Article 7*

1 At the request of the requesting authority, the requested authority shall communicate the information referred to in Article 1, including any information relating to a specific case or cases.

2 For the purpose of forwarding the information referred to in paragraph 1, the requested authority shall arrange for the conduct of any administrative enquiries necessary to obtain such information.

<sup>F13</sup> .....

<sup>F24</sup> The request referred to in paragraph 1 may contain a reasoned request for a specific administrative enquiry. The requested authority shall undertake the administrative enquiry in consultation of the requesting authority where necessary. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

Notwithstanding the first subparagraph, an enquiry into the amounts declared or those that should have been declared by a taxable person established in the Member State of the requested authority, in connection with supplies of goods or services which are made by this taxable person and which are taxable in the Member State of the requesting authority, may be refused solely on any of the following grounds:

- a on the grounds provided for in Article 54(1), assessed by the requested authority in conformity with a statement of best practices concerning the interaction of this paragraph and Article 54(1), to be adopted in accordance with the procedure provided for in Article 58(2);
- b on the grounds provided for in Article 54(2), (3) and (4);
- c on the grounds that the requested authority had already supplied the requesting authority with information on the same taxable person as a result of an administrative enquiry held less than two years previously.

Where the requested authority refuses an administrative enquiry referred to in the second subparagraph on the grounds set out in point (a) or (b), it shall nevertheless provide to the requesting authority the dates and values of any relevant supplies made by the taxable person in the Member State of the requesting authority over the previous two years.]

<sup>F34a</sup> Where the competent authorities of at least two Member States consider that an administrative enquiry into the amounts referred to in the second subparagraph of paragraph 4 of this Article is required and submit a common reasoned request containing indications or evidence of risks of VAT evasion or fraud, the requested authority shall not refuse to undertake

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that enquiry except on the grounds provided for in point (b) of Article 54(1), Article 54(2), (3) or (4). Where the requested Member State already possesses the information requested, it shall provide this information to the requesting Member States. Where the requesting Member States are not satisfied with the information received, they shall inform the requested Member State to proceed further with the administrative enquiry.

If the requested Member State so requires, officials authorised by the requesting authorities shall take part in the administrative enquiry. Such administrative enquiry shall be carried out jointly and shall be conducted under the direction and according to the legislation of the requested Member State. The officials of the requesting authorities shall have access to the same premises and documents as the officials of the requested authority and, in so far as it is permitted under the legislation of the requested Member State for its officials, be able to interview taxable persons. The inspection powers of the officials of the requesting authorities shall be exercised for the sole purpose of carrying out the administrative enquiry.

Where the requested Member State has not required officials from the requesting Member States, the officials from any of the requesting Member States shall be able to be present during the administrative enquiry exercising the powers provided for in Article 28(2), in so far as conditions under the national law of the requested Member State are met. In any case, the officials from those requesting Member States shall be able to be present for consultation.

Where officials from the requesting Member States have to participate or have to be present, the administrative enquiry shall be carried out only when such participation or presence for the purposes of the administrative enquiry is ensured.]

5 In order to obtain the information sought or to conduct the administrative enquiry requested, the requested authority or the administrative authority to which it has recourse shall proceed as though acting on its own account or at the request of another authority in its own Member State.

#### **Textual Amendments**

- F1** Deleted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.
- F2** Substituted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.
- F3** Inserted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

#### *Article 8*

Requests for information and for administrative enquiries pursuant to Article 7 shall be sent using a standard form adopted in accordance with the procedure provided for in Article 58(2), except in the cases referred to in Article 50 or in exceptional cases where the request includes the reasons for which the requesting authority considers the standard form not to be appropriate.

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### *Article 9*

1 At the request of the requesting authority, the requested authority shall communicate to it any pertinent information it obtains or has in its possession as well as the results of administrative enquiries, in the form of reports, statements and any other documents, or certified true copies or extracts thereof.

2 Original documents shall be provided only where this is not contrary to the provisions in force in the Member State in which the requested authority is established.

## *SECTION 2*

### ***Time limit for providing information***

#### *Article 10*

The requested authority shall provide the information referred to in Articles 7 and 9 as quickly as possible and no later than three months following the date of receipt of the request.

However, where the requested authority is already in possession of that information, the time limit shall be reduced to a maximum period of one month.

#### *Article 11*

In certain special categories of cases, time limits which are different from those provided for in Article 10 may be agreed between the requested and the requesting authorities.

#### *Article 12*

Where the requested authority is unable to respond to the request by the deadline, it shall inform the requesting authority in writing forthwith of the reasons for its failure to do so, and when it considers it would be likely to be able to respond.

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