

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 V

**STORAGE AND EXCHANGE OF SPECIFIC INFORMATION**

*Article 17*

- 1 Each Member State shall store in an electronic system the following information:
- a information which it collects pursuant to Chapter 6 of Title XI of Directive 2006/112/EC;
  - b data on the identity, activity, legal form and address of persons to whom it has issued a VAT identification number, collected pursuant to Article 213 of Directive 2006/112/EC, as well as the date on which that number was issued;
  - c data on VAT identification numbers it has issued which have become invalid, and the dates on which those numbers became invalid;<sup>[F1]</sup> and]
  - d information which it collects pursuant to Articles 360, 361, 364 and 365 of Directive 2006/112/EC as well as, from 1 January 2015, information which it collects pursuant to Articles 369c, 369f and 369g of that Directive<sup>[F2]</sup>; and]
- <sup>[F3]</sup>f information which it collects pursuant to points (a) and (b) of Article 143(2) of Directive 2006/112/EC, as well as the country of origin, the country of destination, the commodity code, the currency, the total amount, the exchange rate, the item price and the net weight.]

<sup>[F2]</sup> The Commission shall adopt by means of implementing acts the technical details concerning the automated enquiry of the information referred to in points (a) to (f) of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

<sup>[F3]</sup> The Commission shall determine by means of implementing acts the data elements of the information referred to in point (f) of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

**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 18*

To enable the information referred to in Article 17 to be used in the procedures provided for in this Regulation, that information shall be available for at least five years from the end of the first calendar year in which access to the information is to be granted.

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### Article 19

Member States shall ensure that the information available in the electronic system referred to in Article 17 is kept up-to-date, and is complete and accurate.

Criteria shall be defined, in accordance with the procedure provided for in Article 58(2), to determine which changes are not pertinent, essential or useful and therefore need not be made.

### Article 20

1 The information referred to in Article 17 shall be entered into the electronic system without delay.

2 By way of derogation from paragraph 1, the information referred to in Article 17(1) (a) shall be entered into the electronic system no later than one month after the end of the period to which that information relates.

3 By way of derogation from paragraphs 1 and 2, where information is to be corrected in, or added to, the electronic system pursuant to Article 19, the information must be entered no later than one month after the period in which it was collected.

### Article 21

1 Every Member State shall grant the competent authority of any other Member State automated access to the information stored pursuant to Article 17.

[<sup>F3</sup>1a Every Member State shall grant its officials who check the requirements provided for in Article 143(2) of Directive 2006/112/EC access to the information referred to in points (a) to (c) of Article 17(1) of this Regulation for which automated access is granted by the other Member States.]

2 With respect to the information referred to in Article 17(1)(a), at least the following details shall be accessible:

- a VAT identification numbers issued by the Member State receiving the information;
- b the total value of all intra-Community supplies of goods and the total value of all intra-Community supplies of services to persons holding a VAT identification number referred to in point (a) by all operators identified for the purposes of VAT in the Member State providing the information;
- [<sup>F4</sup>c the VAT identification numbers of the persons who carried out the supplies of goods and services referred to in point (b) and the VAT identification numbers of the persons who submitted information in accordance with Article 262(2) of Directive 2006/112/EC about the persons holding a VAT identification number referred to in point (a);]
- d the total value of the supplies of goods and services referred to in point (b) from each person referred to in point (c) to each person holding a VAT identification number referred to in point (a);
- [<sup>F4</sup>e the total value of the supplies of goods and services referred to in point (b) from each person referred to in point (c) to each person holding a VAT identification number issued by another Member State and, for each person who submitted information in accordance with Article 262(2) of Directive 2006/112/EC, his VAT identification number and the information he submitted about each person holding a VAT identification number issued by another Member State, under the following conditions:]
  - (i) [<sup>F2</sup>access is in connection with an investigation into suspected fraud or is to detect fraud;

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- (ii) access is through a Eurofisc liaison official, as referred to in Article 36(1), who holds a personal user identification for the electronic systems allowing access to this information.]
- (iii) [<sup>F1</sup> . . . . .]

The values referred to in points (b), (d) and (e) shall be expressed in the currency of the Member State providing the information and shall relate to the periods for submission of the recapitulative statements specific to each taxable person which are established in accordance with Article 263 of Directive 2006/112/EC.

[<sup>F32a</sup> With respect to the information referred to in point (f) of Article 17(1), the following details shall be accessible:

- a the VAT identification numbers issued by the Member State receiving the information;
- b the VAT identification numbers of the importer or of his tax representative who supplies the goods to persons holding a VAT identification number referred to in point (a) of this paragraph;
- c the country of origin, the country of destination, the commodity code, the total amount and the net weight of the imported goods followed by an intra-Community supply of goods from each person referred to in point (b) of this paragraph to each person holding a VAT identification number referred to in point (a) of this paragraph;
- d the country of origin, the country of destination, the commodity code, the currency, the total amount, exchange rate, the item price and the net weight of the imported goods followed by an intra-Community supply of goods from each person referred to in point (b) of this paragraph to each person holding a VAT identification number issued by another Member State under the following conditions:
  - (i) access is in connection with an investigation into suspected fraud or is to detect fraud;
  - (ii) access is through a Eurofisc liaison official, as referred to in Article 36(1), who holds a personal user identification for the electronic systems allowing access to this information.

The values referred to in points (c) and (d) of the first subparagraph shall be expressed in the currency of the Member State providing the information and shall relate to each goods item of the customs declaration submitted.]

[<sup>F23</sup> The Commission shall determine by means of implementing acts the practical arrangements as regards the conditions provided for in point (e) of paragraph 2, and in point (d) of paragraph 2a, of this Article in order to enable the Member State providing the information to identify the Eurofisc liaison official accessing the information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

#### **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.

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- 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.
- F4** Substituted by Council Regulation (EU) 2018/1909 of 4 December 2018 amending Regulation (EU) No 904/2010 as regards the exchange of information for the purpose of monitoring the correct application of call-off stock arrangements.

### *f<sup>3</sup> Article 21a*

1 Every Member State shall grant the competent authority of any other Member State automated access to the following information in relation to national vehicle registrations:

- a identification data relating to vehicles;
- b identification data relating to the owners and the holders of the vehicle in whose name the vehicle is registered, as defined in the law of the Member State of registration.

2 Access to the information referred to in paragraph 1 shall be granted under the following conditions:

- a access is in connection with an investigation into suspected VAT fraud or is to detect VAT fraud;
- b access is through a Eurofisc liaison official, as referred to in Article 36(1), who holds a personal user identification for the electronic systems allowing access to this information.

3 The Commission shall determine by means of implementing acts the data elements and the technical details concerning the automated enquiry of the information referred to in paragraph 1 of this Article and the practical arrangements as regards the conditions provided for in paragraph 2 of this Article in order to enable the Member State providing the information to identify the Eurofisc liaison official accessing the information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

#### **Textual Amendments**

- 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 22*

1 In order to provide a reasonable level of assurance to tax administrations with regard to the quality and reliability of the information available through the electronic system referred to in Article 17, Member States shall adopt the measures necessary to ensure that the data provided by taxable persons and non-taxable legal persons for their identification for VAT purposes in accordance with Article 214 of Directive 2006/112/EC, are, in their assessment, complete and accurate.

Member States shall implement procedures for checking these data as determined by the results of their risk assessment. The checks shall be carried out, in principle, prior to identification for VAT purposes or, where only preliminary checks are conducted before such identification, no later than six months from such identification.

2 The Member States shall inform the Committee referred to in Article 58(1) of the measures implemented at national level to ensure the quality and reliability of the information in accordance with paragraph 1.

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### *Article 23*

Member States shall ensure that the VAT identification number, referred to in Article 214 of Directive 2006/112/EC, is shown as invalid in the electronic system referred to in Article 17 of this Regulation at least in the following situations:

- (a) where persons identified for VAT purposes have stated that their economic activity, as defined in Article 9 of Directive 2006/112/EC, has ceased or where the competent tax administration considers that they have ceased such activity. A tax administration may presume in particular that a person has ceased economic activity when, despite being required to do so, that person has failed to submit VAT returns and recapitulative statements for a year after expiry of the deadline for submission of the first return or statement missed. The person shall have the right to prove the existence of an economic activity by other means;
- (b) where persons have declared false data in order to obtain VAT identification or have failed to communicate changes to their data and, had the tax administration known, the latter would have refused identification for VAT purposes or withdrawn the VAT identification number.

### *[<sup>F2</sup>Article 24*

Where, for the purposes of Articles 17 to 21a, the competent authorities of the Member States exchange information by electronic means, they shall take all measures necessary to ensure compliance with Article 55.

Member States shall be responsible for all necessary developments to their systems to permit the exchange of that information using the CCN/CSI network or any other similar secure network used to exchange the information referred to in Article 21a by electronic means.]

#### **Textual Amendments**

- 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.](#)

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