

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 XV

CONDITIONS GOVERNING THE EXCHANGE OF INFORMATION

Article 55

1 Information communicated or collected in any form pursuant to this Regulation, including any information to which an official has had access in the circumstances set out in Chapters VII, VIII and X, and in the cases referred to in paragraph 2 of this Article, shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under both the national law of the Member State which received it and the corresponding provisions applicable to Union authorities. Such information shall be used only in the circumstances provided for in this Regulation.

Such information may be used for the purpose of establishing the assessment base or the collection or administrative control of tax for the purpose of establishing the assessment base.

The information may also be used for the assessment of other levies, duties, and taxes covered by Article 2 of Council Directive 2008/55/EC of 26 May 2008 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures⁽¹⁾.

In addition, it may be used in connection with judicial proceedings that may involve penalties, initiated as a result of infringements of tax law without prejudice to the general rules and legal provisions governing the rights of defendants and witnesses in such proceedings.

[^{F12} Persons duly accredited by the Security Accreditation Authority of the Commission may have access to this information only in so far as it is necessary for care, maintenance and development of the electronic systems hosted by the Commission and used by the Member States to implement this Regulation.]

3 By way of derogation from paragraph 1, the competent authority of the Member State providing the information shall permit its use for other purposes in the Member State of the requesting authority, if, under the legislation of the Member State of the requested authority, the information can be used for similar purposes.

4 Where the requesting authority considers that information it has received from the requested authority is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter authority. It shall inform the requested authority thereof in advance. The requested authority may require that the transmission of the information to a third party be subject to its prior agreement.

[^{F15} All storage, processing or exchange of information referred to in this Regulation is subject to Regulations (EU) 2016/679⁽²⁾ and (EC) No 45/2001⁽³⁾ of the European Parliament and of the Council. However, Member States shall for the purpose of the correct application of this Regulation, restrict the scope of the obligations and rights provided for in Articles 12 to 15, 17, 21 and 22 of Regulation (EU) 2016/679. Such restrictions shall be limited to what

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010, Article 55. (See end of Document for details)

is strictly necessary in order to safeguard the interests referred to in point (e) of Article 23(1) of that Regulation, in particular to:

- a enable the competent authorities of the Member States to fulfil their tasks properly for the purposes of this Regulation; or
- b avoid obstructing official or legal enquiries, analyses, investigations or procedures for the purposes of this Regulation and to ensure that the prevention, investigation and detection of tax evasion and tax fraud is not jeopardised.

The processing and storage of information referred to in this Regulation shall be carried out only for the purposes referred to in Article 1(1) of this Regulation and the information shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Regulation for any other purposes, such as commercial purposes, shall be prohibited. The storage periods of this information shall be limited to the extent necessary to achieve those purposes. The storage periods of the information referred to in Article 17 of this Regulation shall be determined as per the limitation periods provided for in the legislation of the Member State concerned but no longer than ten years.]

Textual Amendments

- F1** 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.](#)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010, Article 55. (See end of Document for details)

- (1) [OJ L 150, 10.6.2008, p. 28.](#)
- (2) [^{F1}Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ([OJ L 119, 4.5.2016, p. 1.](#))]
- (3) [^{F1}Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([OJ L 8, 12.1.2001, p. 1.](#))]

Textual Amendments

- F1** 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.](#)

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010, Article 55.