



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Direct taxation, Tax Coordination, Economic Analysis and Evaluation
Direct Tax Policy & Cooperation

Brussels, **22 DEC. 2011**
MW/sb CHAP(2011)03433

Mr. Klaus Vilner
Klaus.Vilner@wanadoo.fr

Subject: Confidentiality measures

Dear Mr. Vilner,

Thank you for your enquiry of 6 and 20 December 2011 regarding confidentiality of personal information included in real-life double taxation cases of Danish pensioners sent to us.

As you are aware when we receive enquiries and complaints from the public, we register them in the CHAP database. This is where all real-life double taxation cases we have recently received from Danish pensioners have been registered. Each acknowledgement of receipt we sent contains in an Annex a specific privacy statement (attached for your convenience) which outlines in Article 7 who has access to the information.

"7. Who has access to your information

The information collected in the CHAP database is not accessible to anyone outside the Commission. Inside the Commission, the access to the personal information is only granted through USER ID + password to a defined population of users of the CHAP database. The people who have access to CHAP are those in the SG and other Commission services dealing with the Commission mail or infringements."

What happens in practice is that access to a CHAP complaint/ enquiry is only granted to the member of staff in my Unit dealing with a specific case and only this person has an access to the information provided. Thus, in practice, even other members of staff of my Unit, cannot access the information.

In addition, please note that any personal information provided to the Commission is treated in compliance with Regulation 45/2001 on the protection of individuals with regard to the processing of personal data by Community institutions. This sets out a high level of protection of personal data and allows any transfer of such data to other services or third parties only on specific legal grounds and subject to necessity and proportionality test. In addition, each request for transfer of personal data must be assessed on its own merits on a case-by-case basis, so there are quite strong safeguards in place.

This protection is, however, not absolute and there could be situations where the personal data can and should be disclosed to third parties, e.g. other services of the Commission. In your case, our colleagues who will be carrying out an impact assessment for the double taxation initiative may need the real life examples provided to us for the purposes of this impact assessment, which will outline the nature and size of the problem. It is up to them to include any examples in the impact assessment report itself, but you should be assured that such real life cases could only be used as illustrative examples without mentioning any names or addresses.

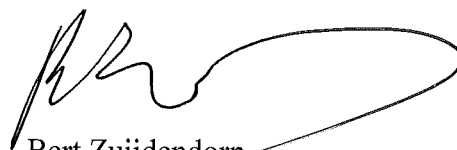
Nevertheless, generally speaking, third parties such as national authorities may need personal data from the Commission for the performance of a task carried out in the public interest or for the exercise of public authority. However, we assume that the Danish tax authority already has such information on the Danish pensioners concerned about the double taxation at hand.

As another example, still generally speaking, there might be also a request for public access to the documents containing personal data and in this case the Commission will have to make a balance test and to transfer (but not publicly disclose) the personal data to the applicant if: (i) there is no reason to assume that the data subject's legitimate interest may be prejudiced (here the data subject can provide specific arguments); and (ii) the applicant establishes the necessity of receiving the personal data. In any case, personal data will not be disclosed if there is a risk for the data subject.

At this stage it is difficult to imagine situations where the personal data provided by you may need to be transferred to third parties, such as national authorities or private parties. Therefore, we are of the opinion that the protection of the personal data in your specific situation would be quite strong and there would be very few situations in which the Commission would need to transfer it. However, there is no absolute guarantee against transfer to a third party and each request for transfer of personal data must be assessed on its own merits on a case-by-case basis.

We hope this information proves useful for you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bert Zuidendorp', written over a horizontal line.

Bert Zuidendorp
Head of Unit