

Results of the Questionnaire II*

Barbara Wisiak

* in order of arrival

- information used as **evidence**
 - taxpayer must be heard
- in case of taxation, fees, customs and penalties
 - also for social insurance cases (Slovenia, Slovakia)
- same value as information from national authorities (Greece, Spain, Bulgaria, Luxembourg)

- **NO standardized procedure**
- check of formal and procedural correctness
 - by court (Poland, Spain, Slovenia, Slovakia, Estonia)
 - by CLO (Austria)
- **free assessment of evidence**
 - in addition:
 - taxpayer is heard
 - taxpayer must be given the right to remark (Italy, Bulgaria, France)
 - substantial review on request (Spain, Slovakia), in case of unclear information (Poland), in general (Bulgaria)

- **No tax secrecy between Member States**
 - as taxpayers are covered by the tax secrecy of the other Member State
 - documents classified with tax-secrecy (Poland, Slovenia)
- **national tax secrecy**
 - broad (Greece, Germany, Austria, Spain, Bulgaria, ...)
 - same standard for all information received (Lithuania)
- **no transmission in special cases** (harm of national safeness, threatens punishment, information not important – Slovenia)

- **No bank secrecy in case of information exchange** (or doesn't exist – France)

Tax authorities receive information by:

- special application/form (Greece, Austria, Slovakia, Luxembourg, Italy (explanation), by court: Bulgaria)
- no special procedure (Poland, Germany, Lithuania, Finland, Estonia)
- bank may reject in special cases (Slovenia)
- automatic information exchange bank – national authorities (Spain)

Information from financial institutions

- **directly submitted to tax authorities** (Greece, Poland, Germany, Spain, Lithuania, Slovenia, Austria, Finland, Slovakia, Italy, France, Estonia, Luxembourg)
- **submitted via court** (Bulgaria)

- special conditions/exemptions (Greece, Spain, Slovenia, Slovakia, Luxembourg for priests and doctors)
Information may not be given
- not in respect of setting the tax (Germany, Lithuania, Austria, Italy, France, Luxembourg)
- no professional secrecy (Poland)

- in respect of setting the tax lawyers must provide all information about their clients (Poland, Germany, Spain, Austria, Luxembourg)
- lawyers do not need to give information (Slovenia, Bulgaria, Estonia)
- special conditions (Greece, Finland, Slovakia, Italy, France)

Content of Request Information of the Taxpayer



- no obligation to inform the taxpayer (Greece, Poland, Lithuania, Austria, Italy, France, Luxembourg, Portugal)
- obligatory information (partly after collecting/submitting: Germany, Spain, Slovenia, Finland, Slovakia, Bulgaria, Estonia)

Contest of the Request



For the taxpayer:

- no contest when gathering the information - contest in the framework of his tax setting (Greece, Poland, Germany, Lithuania, Slovenia, Austria, Finland, Slovakia, Italy, France)
- right to contest the request (Spain, Bulgaria, Estonia, Luxembourg since Berlioz)

Content of Request – Information Holder



- no obligation to inform the information holder about the full content (Greece, Poland, Lithuania, Slovenia, Austria, Italy, Bulgaria, France, Estonia)
- obligatory information (Germany)
- partly information (Spain, Slovakia, Luxembourg)

Contest of the Request



For the information holder:

- **no contest when gathering the information** (Greece, Poland, Lithuania, Slovenia, Austria, Slovakia, Bulgaria)
- **right to contest the request** (Spain – if official is not entitled to ask, Finland, Italy, Estonia even often, Luxembourg if information request is not valid)