Greece

Poland

Germany

Spain

Lithunia

Slovenia

Austria

Finland

Slovakia

Italy

Bulgaria

France

Estonia

CENTRAL LIAISON OFFICE (CLO)

1. At which level of the administration is your national CLO located[1]?

Central Level. Department of International Administrative Cooperation, International Economic Relations Directorate. s of 1.1.2017 is part of the newly established Independent Authority of Public Revenue (IAPR) under Law 4389/2016.

According to Polish law from 9th of March 2017 on exchange of information with other countries the CLO is a central government authority – Head of National Revenue Administration

The German CLO is called "Bundeszentralamt für Steuern" – BZSt – (Federal Central Tax Office) and is a higher federal office which is located directly below the Federal Ministry of Finance.

Spanish CLO is located at the State level: State Agency of Tax Administration ("Agencia Estatal de Administración Tributaria": "AEAT"). The main competent authority is the National International Tax Office dependent of Tax Inspection Department of AEAT.

See Article 5. three, second paragraph, General Tax Law 58/2003, of December 17th.

In the ministry level

Slovenia's exchange of information responsibilities lie with the International Information Exchange Unit, which is part of the General Tax office of the Tax Administration and acts as the central liaison office. This is a first instance body.

The CLO is located at the Ministry of Finance. The Tax Fraud Division (an Austrian wide operating specialised audit division) is operating the CLO

The Tax Administration, in certain cases the Ministry of Finance

Pursuant to EOI Act (Act No. 442/2012 Coll. on International assistance and cooperation in administration of taxes), the Ministry of Finance delegated powers of the Slovak Republic's competent authority for international exchange of information in tax matters to the Financial Directorate. The Slovak Republic's competent authority for exchange of information is the CLO Unit situated in the Anti-fraud and Risk Analysis Section, Risk Management and Operational Activities Department of the Financial Directorate. The CLO Unit is responsible for exchange of information in the field of direct and indirect taxes.

The national CLO is located in the central offices of the Finances Ministry in Rome.

NATIONAL REVENUE AGENCY - TAX TREATIES DIRECTORATE

Public Finances General Directorate, a department of Ministry of Economy, is the French CLO.

Tax and Customs Board (central tax administrator, subordinating to Ministry of Finance)

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2. How does the CLO get the requested information?

The CLO has access to the Greek tax data base. Should the requested information can derive from it, CLO responds directly to the requesting authority. Otherwise, it communicates with the Greek tax authorities (local tax offices) in order to provide the requested information.

The Polish law on exchange of information with other countries provides that information can be acquired on a request by the competent tax authority through the Head of National Revenue Administration

In order to facilitate the exchange of information the electronic communication systems can be used. It is also possible to conclude bi- or multilateral agreements with the other countries.

It gets the information only by electronic data collection (see No. 5). The BZSt is called by the local finance office in order to collect the data for the finance office.

Spanish CLO get requested information requiring the necessary collaboration of the competent authority, according to the purpose of the assistance, and practicing the procedures or actions that were necessary. There is information accumulated in the databases of the State Agency that has been elaborated from the information transmitted by de tax obliged to expire with his formal obligations.

They ask of it from other institutions informing them with the purpose of the need.

In most cases, the incoming requests are transferred to a Local Tax office/Special Tax Office which is responsible for collecting the requested information from the person concerned or from a third part in possession of the information. Slovenia also exchanges information spontaneously and automatically with an increasing number of partners.

The central liaison office sends all the data which is having on its disposal or is able to somehow get it. For assurance of the data the central liaison office uses all the authorization which office gets by law connected with the same procedures in Slovenia.
Unless there are some different rules in the act, for taking decisions in the first level of tax procedures when the tax administration of Slovenia is responsible, all matters are done by tax office where taxpayer is in the tax register. If the taxpayer is not in the tax register, all the decision due to the tax procedure are done by tax office on the area where the tax obligation occurred. All the proposes for help are send by central liaison office in the execution to tax office. Tax office needs to send all the collected data to the responsible office of the country.

They search in national data bases and ask the relevant tax office.

Automatically, by the request, spontaneously

The CLO get the requested information within EOI in direct taxation from its treaty partners and EU Member States on electronic forms by secure manner via so called CCN mail or by ordinary mail from third countries. The officials holding the requested information provide the outcome of their investigation by secure email to the relevant contact person at Local Tax Office who serves as a contact point for the CLO.

All requests for information are received or sent by the CLO Unit. The CLO Unit is responsible for communication between the competent authorities and for administration of the gathering of the requested information. This includes checking whether the responses

sent by the tax offices include all the required information, that the information is provided in the requested format or if the requested information cannot be provided that the tax office provides an explanation as to why it was not able to provide all the requested information.

Once the request is received it is allocated by the CLO Unit to one of the nine tax offices responsible for handling the tax affairs of single taxpayers. There are eight tax regions. Each tax office is responsible for one of the regions. In addition to eight tax offices with local jurisdiction there is one office for large taxpayers which has jurisdiction over the whole country. The CLO Unit has established a network of 20 contact persons meaning that there are two contact persons for each tax office. These contact persons are responsible for smooth co-operation between the CLO Unit and the tax auditor gathering the requested information.

This includes ensuring allocation of the request to a tax auditor, use of proper formats for providing or requesting information and maintaining proper communication between the CLO Unit and the tax auditor handling the request. The contact person can gather the requested information himself/herself but this is not very common in practice. Requests are normally handled by the tax auditor responsible for the taxpayer concerned. It is the responsibility of the tax auditor to ensure that all steps necessary to obtain the requested information were taken and that the provided information is correct and well evidenced.

The CLO has the same checking power that are attributed to the taxation offices. They can use the Finance Guard and they can ask the officials that have information.

The local requested authority shall communicate the available information or carry out the administrative proceedings specified in this Code to obtain and communicate the requested information.

Once a year, French financial institutions must declare on a specific form the information requested by the automatic exchange of information agreements (through a tax return until Law of August 8th, 2014, from which it is required to file an electronic declaration through a specific IT platform).

We can mention another way of collecting information, besides this ordinary declaratory procedure: since 2016, public officials have to declare to a specific independent authority for transparency (HATVP: haute autorité pour la transparence de la vie publique) the state of their assets, either owned on national territory or abroad. About 16 000 individuals have been concerned. HATVP can exchange information with tax administration.

By making a respective application to another CLO.

3. Are there any instruments which force the officials holding the requested information to provide it in a timely manner to the CLO?

The legal framework (DAC) provides for the times limits. Reminders and updates are regularly sent. However, a response in a timely manner cannot actually be “forced”.

The Polish law on exchange of information with other countries provides time-limits to forward the requested information. The general time limit is set at 6months period from the moment of receiving a request. However if the sought information is already in the possession of a tax authority it should be forwarded in the 2 months period.

In extraordinary cases the abovementioned time-limits can be shortened or extended.

As the BZSt gets the information by automatic data collection, there is no official to provide it to the BZSt.

No, there are not specific instruments which force the officials holding the requested information to provide it in a timely manner to the CLO.

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No, there are no instruments which force the officials holding the requested information to provide it in a timely manner.

The Tax Office is obliged to submit the requested information (§ 2 Abs 4 Amtshilfe Durchführungsgesetz). It is the same obligation as within the national assessment.

Deadlines regarding automatically given information, as yearly declarations on salaries, FATCA – 31st of January 2017 for the year 2006, CRS, DAC2 for the year 2016 31st of March 2017. Tax increase may be assessed.

None of the Slovak Republic’s Direct Tax Convention nor the Multilateral Convention states specific deadlines in which the requested information should be provided. Since 1 January 2013 specific time limits have been prescribed for exchange of information among EU Members States. According to Article 7 of the Council Directive 2011/16/EU (DAC1) the requested information should be provided as quickly as possible, and no later than six months from the date of receipt of the request. However, where the requested authority is already in possession of that information, the information shall be transmitted within two months of that date. These time limits were incorporated into Slovak law by the EOI Act also in respect of exchange of information based on EOI treaties.

The official holding the requested information is obliged to meet the time limits according to internal instruction.

It's possible to apply disciplinary sanctions.

All the persons, state or municipal bodies shall be obliged in 14 days term from the receiving of request by the body of receivables to present the data, the information, the documents, the papers, the information carryings and the other evidences regarding the indicated in the request facts and circumstances.

Upon request by the body of receivables the persons , state or municipal bodies shall be obliged to disclose the respective official, bank or insurance secret. For disclosure of bank or insurance secret, the rule is established by the national law.

Article 1736 of the French General Tax Code provides that the failure to comply to the reporting obligation, including a breach to time limits -that are ruled by a separate regulatory text-, is punished with a fine of 200€ for each account.

Not particularly, but usually all enquiries get the answer in 3 days.

4. Are there any national time limits (legal, practical, general or specific) for provision of information to the CLO?

The national time limits are set in accordance and respectively with the time limits provided by the legal framework (DAC). Reminders are sent accordingly.

See answer to q.3 above.

No

Yes, there are legal time limits for provision the information to the CLO. These time limits are established by Article 204 General Regulation Inspection and Management Tax Procedures. The competent authority shall provide the requested information within the maximum period of three months, unless the applicable mutual assistance rule establishes a period to provide the requested information less than six months. In that case, AEAT shall set a period to provide the requested information that it not exceeds than the half of the period established by the applicable mutual assistance rule. If the competent authority was not feasibly to respond within that period, as soon as possible, it shall report to AEAT the reasons and the date on which it may respond.

The CLO has their own time tables established for specific needs.

Central liaison office can pass the information to the official authority of the requested country in 2 months after receiving the request if it is still having it at disposal, or the last date is 6 months after receiving the disposal. Responsible office and office of the requested country are able to make an agreement for some specific case around the deadline, if the tax authority has reasonable assumption that data collection would be longer than 6 months.

- concerning VAT: as soon as possible; at most within 3 month (Art 10 Council Regulation 904/2010)

- concerning all other taxes: as soon as possible; at most within 6 month (§ 5 Abs 1 EU-AHG) other time limits may be agreed between the (member)states

- practical: 70% of the cases within 3 month, 25% faster, max. 5% longer than 6 month

Yes, see above.

Tax auditors have three months period for providing of the requested information. If the requesting authority wish to reply its request earlier than specified in Council Directive 2011/16/EU (six months) for specific reasons the CLO Unit will shorten internal time limit for local tax office. The CLO Unit prepares Internal EOI Directive which should be valid during next year.

The national time limits are established in the request of the CLO.

The local requested authority shall provide the information to the requesting authority of another Member State as quickly as possible.

Where the authority is already in possession of that information, it shall be transmitted within two months of the date of receipt of the request, and in the remaining cases - no later than 6 months from the date of receipt of the request, unless stipulated otherwise.

Time limits for providing the requested information are defined by art. 54 of decree 2016-1683 : the declaration must be fully complete by July 31st of each year.

No.

5. Do any electronic tools exist in your Member State to facilitate the collection of information within the requested state for the purposes of exchange of information?

The Greek CLO has access to the Greek tax database.

According to Polish law from 9th of March 2017 on exchange of information with other countries the requests of information shall be processed electronically using the standard forms. The paper exchange is considered as a exception to this rule. However we do not have any accurate information on actual usage of such electronic tools.

Yes. § 93 b AO (General Fiscal Code) provides that the BZSt may collect data from the data collection at the bank institutes. The bank institutes are obliged to hold this data collection for that purpose. But it is allowed only under strict conditions.

Yes, there are electronic tools in Spain to facilitate the collection of the requested information, because their existence is demanded by Article 207 General Regulation Inspection and Management Tax Procedures. Indeed, Article 207 establishes: "The communications necessary to comply with the information provision obligations shall be carried out, preferably, by electronic, computer or telematics means.

Information can be send throw secure server in emails or secure internal systems of the institutions

Responsible authorities can automatically exchange the data on the regulation without advance request about specific categories of the information. Tax authority can pass the information and the data without advance request, when it founds out in taking the tasks that:

- there could be signs of criminal act behind it;
- there is a suspicion about violation of law or some other regulation or act of which execution can be controlled by inspection;
- that collected data could cause some consequences on the rights and responsibilities of taxpayers about which those authorities and institutions are taking decision in their jurisdiction.

When tax authority has on its disposal information which could be interesting for the tax authority of other country, can provide that information without the request to the authority of other country.

Nevertheless, every authority is responsible to maintain fluently and in the right way make public announcements (official newsletter of authority, web etc.) and give on sight to the person who requests according as a part of content settled catalog of information of public character which it has at disposal. Authority needs to put on web free of charge:

- refined texts of regulation, which are referring to the work area of the authority;
- programs, strategies, viewpoints, opinions, studies and other documents;
- recommendations of regulation, programs, strategies and other documents;
- all documentation on the public order area and public tender for localization of assets, subsidy, loans and other kind of co-financing of state or community budget;
- all the data about administrative service and other information of public form;
- all the data of public form which were demanded by applicant at least three times.

there are no specific tools for information exchange but the CLO and the tax office may use all national data bases available

Protected e-mail connection, CCN-information network, CD-rom.

Communication between the CLO Unit and the local tax office is carried out through a secure email network. For communication between competent authorities of EU member states the CCN network is used. With regard to other countries, the requested information is sent by the registered post.

For internal communication within Slovak financial administration, the CLO unit has launched to use a new IT system for EOI (so called ISFS SD) since 1st June 2017.

Yes, they do.

Our national law have special provisions for access to information on technical carrier, that oblige checked persons to ensure to the bodies of receivables an access to their automated information systems, products or archives, when the collection, the keeping and the processing of the information are implemented in this way.

Article 1649 AC of the French general tax code implements a specific form for the tax information requested by the automatic exchange.

This form, that is to file under the conditions and within the time periods provided for by decree, replaces, for this tax information, the IFU tax return. The individual IFU tax return, specifically intended to french tax services, has been found to be inadequate for the international automatic exchange of information.

This article also authorizes financial institutions, as part of their reporting obligations, to process personal data in order to identify taxpayers and relevant accounts.

It thus provides a legal basis to the reporting obligations financial institutions must accomplish for the automatic exchange of information, especially by proceeding to automated processing of personal date.

This data processing is subject to Law 78-17 of January 6th 1978 relating to Information Technology, Files and Civil Liberties.

All information in Estonia is exchanged via electronical channels.

THE VALUE OF INFORMATION OBTAINED BY EXCHANGE OF INFORMATION IN NATIONAL ADMINISTRATIVE AND COURT PROCEEDINGS

6. To which extent can the information obtained via exchange of information from other Member States be used by the national tax administration or the courts in your Member State? [Some Member States always follow up by means of requests of information to obtain the documentary evidence]

(a) It may be used in connection with judicial and administrative proceedings that may involve penalties, initiated as a result of infringements of tax law, without prejudice to the general rules and provisions governing the rights of defendants and witnesses in such proceedings (Article 16.2 of the Directive and Article 22.2 of the OECD / Council of Europe Convention) and

(b) it may be used in connection with judicial and administrative proceedings that may involve penalties, initiated as a result of infringements of tax law, without prejudice to the general rules and provisions governing the rights of defendants and Witnesses in such proceedings (Article 16.2 of the Directive and Article 16.2 of the abovementioned Greek Law 4170/2013).

Any documentary evidence should be submitted to the Court consisting part of the "administrative file". Since the information obtained via exchange of information pursuant to DAC is covered by the obligation of official secrecy (Article 16.1 of the Directive and Article 16.1 of the Greek Law 4170/2013 which transposed the said Directive) it should be treated accordingly upon its submission to the Court. in any case it is treated on the same basis as similar information, reports, statements and any other documents provided by an authority of that Member State (Article 16.5 of DAC and Article 16.7 of the Greek Law 4170/2013).

Polish tax authorities often provide evidence acquired through VIES or information acquired from the requests addressed to tax authorities of the other Member State. The latter option is mostly used when it is impossible to acquire information regarding the specific activity of the taxpayer from the national sources or the tax payer dose not have/is not willing to show any documents regarding contested transaction.

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In Spain the information obtained via exchange of information can be used with great breadth by tax administrations to carry out its actuations, and mainly as a documentary evidence by courts. The reports, the declarations and any other document from another Member state has the same value that the documents and information which origin is in the own State recipient

In full extent except if it is confidential to and the institution are not allowd to use such an information.

Obtained data are considered as a tax secrecy. Due to that all obtained data and information can be used by authorities of Slovenia just for purposes for which were obtained or for prevention of serious and indirect public threats. Also, they can be used in the procedure of tax collection (VAT, duties, excise and compulsory contribution for social security) and in the

criminal procedure, which started due to the violation of tax law. Using data for other intentions is allowed only with prior authorization of the member state.

The provided information is an evidence that is subject to free assessment of evidence

Sometimes the tax office ask the taxable person for further information or give them the possibility to remark something, sometimes they can immediately make an assessment. This depends on the nature of the gathered information.

The information can be used but it has to be heard by a taxpayer to give him/her an opportunity to provide the authorities with comments, if he has not provided the information himself.

According to EOI Act, Article 14 Treatment of Information:

(1) Information received from the competent authority of the Member State may be made available to

a) state administration authorities for taxes, fees and customs[4] for the purposes of

1. administration of taxes[1] pursuant to Art. 3;

2. assessment and enforcement of taxes other than those referred to in point 1 which are subject to a separate regulation;[14]

b) the Social Insurance Company and authorities pursuant to a separate regulation[15] for the purposes of determining and recovering insurance premiums under separate regulations;[5]

c) law enforcement authorities[16], the prosecution office, the Police Force[17] and the court for the purposes of court proceedings or criminal proceedings for an abuse of tax legislation.

(5) The documents which the competent authority of the Slovak Republic received under this Act from the competent authority of the Member State may be invoked as evidence for the purposes of the administration of taxes[1].

The extent is wide. Italian tax law admit probation if the obtained information is suitable to prove the tax demand.

The information obtained via exchange of information from other Member States is used by the national tax administration and the courts in our country as official information.

The information obtained via exchange of information is deemed to be usual means of proof. The administration can bring it before the courts, or even merely refer to it. If the content of the exchange of information is not disputed, the courts will take it as established, without the need to obtain the documentary evidence.

There are no rectrictions. For the court, a translation into Estonian has to be added.

7. What kind of standard of scrutiny do the courts in your Member State apply to the information received from another Member State via exchange of information? Do they limit themselves to reviewing the formal and procedural correctness of the information or do they carry out a substantive review of the information (since different Member States qualify the income of taxpayers differently; what is qualified as interest income in some Member States, is qualified as dividends in other Member States)?

We do not have yet any information before our courts.

In principle, under the generally applicable Greek procedural rule of free assessment of evidence, any such information is assessed in combination with any other piece of evidence available in order to conclude a judgment without any restrictions. The Greek judge may not contest the substance of the information provided, yet in applying the proven facts to the relevant provisions the necessary adjustments shall be made.

It depends on a particular case. In most cases Polish administrative courts review the formal and procedural correctness of the information. However, if there is such a need the Court will review the information taking into account the differences in the legal treatment of a particular transaction between laws of Member States involved.

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Normally, Spanish courts limit themselves to reviewing the formal and procedural correctness of information, and they only carry out a substantive review if the parties so request.

They carry out a substantive review of the information.

In case of obtaining the data from some other Member States, the court can set their limit just on the formal and adjective assumptions. In the situation of obscurity, the court can ask for additional explanations. While processing obtained data from other country member or international organizations, the court is bound to limits which were set by the authority of data intervention. Court does not interfere into the content, but it tries to use the collected data in the case for which it asked for information and by bearing in mind all other data and proofs which were already obtained.
In general the Austrian CLO checks if the information received is complete and coherent. The CLO also translates the incoming information in German.

The court has no standardised scrutiny. Usually the provided information is considered to be correct in form and content (never heard about a problem in this field).

A reason for this may be that the provided information is about facts (e.g. they paid 10.000 Euro to …) and not about legal consequences.

The carry out a substantive review of the information.

In practice, the courts limit themselves to review only formal and procedural correctness of the information. There are no legal restrictions to carry out a substantive review of the information.

The national tax administration or the national court has to check if the information has been obtained by violating the national constitutional rights of the taxpayer. The qualification of the income of the taxpayer has been brought into effect according to the national legislation.

In our country the courts carry out a substantive review of the information, not only formal, but substantive.

The convincing force of the information received via exchange of information is not stronger than information brought by the French administration itself. So it can be disputed just as usual information, regarding the procedural correctness of the information as well as its content.

Regarding the procedural correctness, the taxpayer has the right to be informed of the decision to seek the international administrative assistance if the collected information is the founding of the tax adjustment. In this case, he has to be informed before the implementation of the tax collection.

Regarding the merits of the information, the qualification made by a Member State can be disputed before the courts as well as the qualification made by the French tax administration.

It depends. The presumption is that the information is correct and collected in a correct way. If there is any reason to believe that the collection of evidence has not met Estonian standards, the court will take it into consideration. But otherwise that will be just ordinary evidence as good as domestic.

TAX SECRECY

8. What is the scope of tax secrecy in your Member State in the context of exchange of information?

Information communicated between Member States in any form pursuant to this Directive shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it (Article 16.1 of the Directive and Article 22.1 of the OECD / Council of Europe Convention).
The abovementioned provision of DAC has been transposed as such by therespective Article 16.1 of Greek Law 4170/2013.
Tax secrecy in Greek tax law is prescribed by Article 17 of the Code of Tax Procedure. Its scope is very broad, as it refers to anyone exercising tax administration duties, apart from governmental employees, covering any tax information or data they became aware of in terms of their duties. However, numerous exceptions are explicitly provided for in the abovementioned Article, among which is the disclosure of such information to courts adjudicating relevant cases and to foreign tax authorities in the context of exchange of information under DAC. Also, tax secrecy may be suspended upon written approval of the taxpayer.
This concerns mostly the "sensitive data" that is the particulars enabling to identify the taxpayer, concrete transactions etc.

According to Polish law from 9th of March 2017 on exchange of information with other countries every request coming from the Member States and the information forwarded to other Member States are classified as "tax secrecy" documents.

The tax secrecy is laid down in § 30 I AO. Every official has to respect the tax secrecy. In case of tax evasion of international or substantial importance or between two or more countries, the data can be obtained without considering the tax secrecy (§ 88 b AO). The tax secrecy need not be respected in a case of tax fraud or if the information is needed for a general criminal procedure and has been obtained in a procedure concerning tax fraud.

It´s only possible to compile and manipulate the strictly pertinent, suitable and necessary information to carry out certain, explicit and legitimate purposes. It´s necessary too to have the assent of affected person to be able to treat his personal information. The requirement of the assent disappears when the treatment of the information of personal character is necessary for the exercise of the public functions of the administrations in the area of their jurisdiction.

The general rule respect of the use of the information is the principle of reservation, what means that the information will be protected by the official secret and will enjoy the protection that the national legislation of the Member state that grants to the information of the same nature (in the Spanish case the solution is in the art. 95 LGT). The information has reserved character and only it will be able to be used for the effective application of the taxes or resources and for the imposition of the sanctions. It´s not possible to yield or report to third parties, with a few exceptions

The same as every other information. We have the same standard for the tax or other information secrecy.

Tax authority needs to keep as classified all the data which was provided by taxpayer to the tax authority in the procedure. Also, all the other data which is somehow linked with the tax obligation and is in hand of tax authority needs to be kept as classified.

Still there are some rules when the data can be revealed by tax authority, even if the data is a part of tax secrecy, so the data can be revealed:

- to authorities of European Union and Authorities of EU Members which are responsible for data exchange or are helping collect taxes what is a part of procedure and legislation of European Union or with that specific tax act;
- to Special departments of foreign countries, if there exists international contract where Slovenia has a part in it, about avoiding double taxpaying;
- if there is a definitiveness in other international contracts which are vowing Slovenia.

Authority can reject providing information or the data, if there exists some suspicions about intervening the data and information that:

- can harm basics of the national safeness of Slovenia;
- can threaten success of investigating punishment act or collecting information or the data about punishment act or individual safeness;
- all the needed data or information are not important or are disproportionately needed.

There is no tax secrecy in between the authorities of the different member states

Tax matters are secret at the same level with the domestic information.

In practice, all types of information exchanged including official communications between the Competent Authorities are protected under the Slovak tax secrecy rules (Act 563/2009 Coll. on Tax Administration and on amendments and supplements to certain laws (Tax Procedure Code) in the same way.

Tax secrecy rules are specified in the Art. 11 of the Tax Procedure Code.

The scope of tax secrecy doesn't cover the bank secrecy and regards professional secrecy.

The tax and insurance information shall be concrete individual data of the liable persons and subjects, regarding the bank accounts, the extent of the incomes, the extent of the charged, established or paid taxes and obligatory insurance contributions, the used reductions, exemptions and assignment of tax, the extent of the tax credit and the tax at the source of the incomes, except of the extents of the tax assessment and the due tax under the Local Taxes and Fees Act, the data from commercial activity, the value and the type of the separate assets and liabilities or properties, which present a commercial secret, all the other data, received, certified, prepared or collected by a body or receivables containing such information, or a servant of the National Revenue Agency at the implementation of his/her authorities.

The Tax Procedures Code provides tax secrecy. However it provides exceptions: according to art. L. 114 A, the French tax administration can communicate to the tax administrations of Member States information that is necessary to asses taxes due (subject to reciprocity).

Tax secrecy does not prevent giving information to a foreign CLO (or domestic court).

BANK SECRECY

9. If a Member State gets a request involving bank secrecy, what is the procedure for obtaining the necessary information?

The request is sent by the CLO to the competent local tax office. The tax office issues an audit order and communicates with the financial institution using a designated e-application.

There is no special procedure which allow the tax authorities to gather information classified as a bank secrecy. In cases before Polish administrative courts the defence of bank secrecy raised by foreign financial bodies often results in a lack of means to collect such information.

§ 30 a AO provides that the finance administration has to consider the relationship of trust between the bank institutes and their clients, but there is no general bank secrecy. There is no special procedure for obtaining the information.

9 and 10. Financial institutions have to present this an annual declaration in the case that the persons who show the title or the control of the financial accounts are fiscal residents in another member state in which the D. 2011/16/UE applies. They must report the name and surnames or trade name or name completes, the domicile, the countries or jurisdictions of residence and the ID (NIF) of every person holder of the account; account number; name and number of fiscal identification of the financial institution; balance or value of the account at the end of the natural considered year.

If the Spanish Tax Administration does not already have the information requested by the other Member State, it will always be possible to make an individualized request and articulate the mechanisms of Article 93 LGT (developed by Article 30 RGGIT), in order to obtain tax information on the part either from the Central Information Team or from the AEAT Delegation (Inspection Unit) through the corresponding Chief Inspector. Likewise, it may initiate mutual assistance mechanisms, provided for in Article 177 bis LGT, with other States or international or supranational entities.

Only the judge directly can get that information.

Request which has in common demand for intervention of specific bank secrecy is given to the body which is working with the demanding data.

The bank can reject the request:

- if there are some exceptions of free access in the demanded documents, which are set by Freedom of Information Act in the 1. paragraph of Article 6 (for example, secret data, professional secrecy, personal data, data obtained with court procedure or other procedures etc.) and in article 5.a (participants or persons suffering damage in the procedures of keeping source secrecy);

- if the document is not at disposal.

Bank of Slovenia can reveal some bank secrecy to the third subjects from other countries if:

- Slovenia has an agreement with that third country about cooperation between authorities of Slovenia and Third Country by which he made a mutual agreement about exchanging secret information;

- for the stated person of third country in that same country, the rules about obligation of keeping secret information are used;

- The purpose of the information is just for needs of authority.

Nevertheless, some bank secrecy can be revealed, if that information is needed by authority for execution of their tasks and jurisdiction which are in line with regulation which regulate their activity and authority.

Acc to § 3 "Amtshilfe Durchführungsgesetz" the bank is obliged to submit the requested information without further procedure. The bank is not entitled to check the request in respect with correctness or legality (§ 3 Abs 5 leg.cit).

The National Board of taxation may control and review the request. Depending on the Treaty, the information may be given automatically by the financial institutions

When processing such a request these provisions of the Tax Procedure Code and Act on Banks are applied:

Art. 26(3) Tax Procedure Code
(3) Providers of payment services[23a)] shall be obliged to notify
a) the data according to a special regulation[24)] to a tax office;
b) a report containing data according to a special regulation[25)] to the Financial Administration or to the tax administrator which is a municipality.

[24)] Act on Banks

Art. 91(4)(c) Act on Banks
(4) A report on matters concerning a client that are subject to bank secrecy shall be submitted by a bank or branch office of a foreign bank without the prior approval of the client concerned solely upon request made in writing by:

c) a tax authority,[80a] custom authority[80b] or municipality being the tax administrator[80c],
for the purposes of tax or customs proceedings to which the client of the bank or branch of foreign bank is a party pursuant to a separate regulation,[81] including a client's participation in exacting tax arrears in tax or execution proceedings or exacting customs debt in customs execution proceedings,
The procedure consists in the explanation that the information has the purpose of verifying facts that have fiscal relevance.

In case a request is received from a requesting authority from another Member State of the European Union, the competent authority may require that the court discloses a bank secret within the meaning of Art. 62 of the Credit Institutions Act, a secret within the meaning of Art. 35, -para 2 of the Markets in Financial Instruments Act and Art.133 of the Public Offering of Securities Act, or within the meaning of another provision of Bulgarian law concerning the confidentiality of cash funds, financial assets and other property.

Bank secrecy is not a legal requirement anymore.

No specific procedure, the Tax and Customs Board collects the information and sends it (answer in English, some papers added might be only in Estonian).

10. Will the tax authority of your Member State be able to obtain the information directly from the financial institutions or do they have to ask for it through courts?

The tax authorities are able to obtain the information directly from the financial institutions. Tax Authorities can do it directly without any courts procedures.

In most of the cases the tax authority doesn't need to get Court's approval to send the request to the tax authorities of other State.

The tax authority (tax office or BZSt) can obtain the information directly from the financial institutions by collecting the data (§ 93, § 93 b AO).

see 9

Can get it directly from the institutions using information getting document forms.

Tax authority can collect the information from financial authorities. Obligation of providing the data to tax authority is specified in Tax Procedure Act which in the 1. paragraph of Article 39 determines that all person from Article 31 of this Act (person which is due to manage the business books and records in line with the law or on its basis regulation revealed, other acts or accounting standards) or other persons, which are authorized by the act that they are able to set, lead and maintain the data collection, register or other records, needs to provide all the data which is threaten as needed for collect of tax to the tax authority and provide a possibility to tax authority for insight to their own documentation. They need to provide on disposal documentation lead by them in register, evidence or data collection form. Tax authority can get the data automatically if that is the way and sort of which is set by Tax Procedure Act, and which organizing duties authorities and act of duties on written proposal or on the place.

Yes (see 9) The CLO requires the information by using a form that is meanwhile well known

In a client-lawyer relationship information change is confidential.

The Slovak tax authority is able to obtain the information directly.

The information can be obtained directly from the financial institutions.

Not directly from the financial institutions. They have to ask for it through the court.

The tax authority is able to obtain the information from the financial institutions without having to ask for it through courts. The tax administration has an extended right to request any tax information and force the person (any third party : a firm, a financial institution, public administration, any individual or corporate creditor, etc) from whom the information is requested to provide it, subject to penalties (1 500€ fine).

Directly from financial institutions.

PROFESSIONAL SECRECY

11. What are the limits of professional secrecy in the context of exchange of information?

The provision of information may be refused where it would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process or of information whose disclosure would be contrary to public policy (Article 17.1.4 of the Directive and Article 21.2.4 of the OECD / Council of Europe Convention).

However, under Greek Law (Article 15.5 of the Code of Tax Procedure) professional secrecy is not unconditional. Any information or documents covered by professional secrecy that is relevant to setting the tax obligation of a taxpayer may or has to be disclosed under certain conditions.

As regards professional representatives (attorneys, tax advisors, solicitors) the Polish law stipulates that they shall not disclose any information acquired from their clients.

Professional secrecy is not limited in time.

According to § 102 III AO, professionals must not refuse to give the information when they are released from confidentiality.

Obligation to provide information to the Tax Administration of professionals is regulated in Article 93.1 LGT as follows: "Public officials, including official professionals, are obliged to collaborate with the Tax Administration providing all kinds of information with tax implications of the that they have ". This obligation, however, has as exceptions or limits:

- The secret of the content of the correspondence.

- The secrecy of data that has been supplied to the Administration for an exclusively statistical purpose.

- The secrecy of the notarial protocol and those relating to matrimonial matters, with the exception of those relating to the economic regime of the conjugal society.

It is also established that the obligation of other professionals to provide tax information to the Tax Administration (including financial institutions) will not reach:

- Private non-patrimonial data that they know by reason of the exercise of their activity whose disclosure is against honour or personal and family privacy, and

Confidential information of its clients of which they have knowledge as a result of the provision of professional advice or defence services.

Court can get all the information needed but it can not be distributed further.

With professional secrecy Company is able to specify all the professional secrets, a way of keeping those secrets, all people which know those secrets and their responsibilities which are connected with how to keep the secret. There are no limits connected with setting the professional secrecy, but as a professional secrecy the data which needs to be public (like ownership of company, share capital, yearly reports etc.) are not considered as professional secrecy and also the data about lawbreaking or business tradition.

Freedom of Information Act set a possibility of rejection of the request of the person which wants some specific information when this information is part of professional secrecy. Access is approved if the public interest is much bigger than the interest of other person for limiting access to wished information unless for:

- the data which are written according to the law which is arranging secret data and are threaten with the highest level of secrecy;
- the data which contain or are prepared on a secret data of foreign country or international organization by which Slovenia is in international contract with exchanging or intervene of secret data;
- the data which contain or are prepared on the basis of tax data, which were collected by Slovenia special organs from foreign country special organs.

There exist no special regulations concerning professional secrecy. As the requested information only concerns fiscal questions the professional secrecy has no importance in practice.

They have to ask via courts but this is exceptional.

The limits of professional secrecy in the context of exchange of information are stipulated in the Art. 15 (1)(d) of the EOI Act in which is implemented Art. 17(4) of the Directive 2011/16/EU on administrative cooperation in the field of taxation.

(1) The competent authority of the Slovak Republic shall refuse to provide information at the request of the competent authority of the Member State pursuant Article 6 if,

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d) its provision would lead to the disclosure of commercial secret19), to the breach of the confidentiality obligation pursuant to special regulations20), or its provision would be in conflict with the interests of the Slovak Republic21) or with the public policy.

In general, Art. 26 of the Tax Procedure Code applies which stipulates:

Any person who has written documents, documents and other things which may be evidence in the process of tax administration shall be obliged, at the call of the tax administrator, to release or lend the written documents, documents and other things.

In the context of exchange of information there are not limits of professional secrecy if the tax administration has the possession of the information.

Professional secrecy is in the framework of the tax and insurance information that civil servants learn in the process of their work.

The Tax Procedures Code (art. L 86) provides that the tax administration can ask a lawyer about a payment received from a client. The information can be about the amount of the payment, the client identity, the date and the means of the payment.

Nevertheless, the information can't be about the nature of the service.

That secret has to be kept. Usually the officials get extra pay added to their wages to keep that secret and it would be a disciplinary offence to breach that responsibility.

12. Do lawyers need to provide information about their clients to the tax administration directly or does the tax administration need to ask for the information via courts?

Lawyers can not provide any information neither by themselves nor via courts

Following the answer provided to the above question No 11, a distinction should be made between (a) information related to their financial transactions with the taxpayer and (b) any other information provided for in Article 15.5 of the Greek Code of Tax Procedure. For the latter the Head of [APR (former General Secretary of Public Revenue) should submit a request to the competent Public Prosecutorin order to be granted the necessary permission. On the contrary for information under (a) no such permission is needed and lawyers are obliged to provide such information about their clients.

In most cases the tax authority can ask for and obtain the necessary information directly from the taxpayer (his lawyer). During the administrative court proceedings it is possible, but only as an exception, to conclude additional evidence proceedings. However normally, if the tax authority fails to submit necessary evidence it is regarded by the Polish administrative courts as a violation of a procedural rule (the need to present sufficient evidence backing the position taken by the tax authority) and referred back to the administrative stage

They must give the information directly to the tax administration if they cannot refer to the professional secrecy.

They have to provide the information directly to the tax administration.

Via courts.

Lawyers need to keep all the information about their clients. It's their job responsibility. They are prohibited to provide some information about their clients. Their still exists some special cases when the lawyer can provide some information:

- if its client said that the lawyer does not need to keep secrets anymore;
- if the revealing of the secret is for the good of the client;
- if the revealing of the secret is needed due to the client's personal interests.

Still the lawyer is prohibited to reveal some secrets if that is the order from the client unless there still exists some special occasions which are in the personal interest of the client.

The tax administration is in contact with tax advisers. They have to submit all requested information as the taxpayer itself. The same would apply to lawyers.

No as a main rule, as mentioned above.

They provide information about their clients only if the information is not covered as legal professionals' privilege. The information is provided to the tax administration directly.

The lawyers can object the professional secret. In this case the tax administration needs to ask for the information via courts.

The lawyers are not obligated to provide information about their clients to the tax administration, because their first obligation is to keep the interest of the client.

The tax administration doesn't need to ask for the information via courts but can be led to ask the president of the Bar:

In the framework of "Tracfin"[2], the lawyers have to inform the tax administration spontaneously when they suspect an infringement that would be punished with at least one year prison term or that could be related to terrorism funding. Where necessary, the lawyer sends a "declaration of suspicion" to the president of the Bar, who sends it to Tracfin if he founds out that the legal conditions are fulfilled.

Tracfin can't ask directly a lawyer for information. He has to go through the president of the Bar.

Apart from Tracfin, the Tax Procedures Code (art. L 86 LPF) provides that the tax administration can ask a lawyer about a payment received from a client. The information can be about the amount of the payment, the client identity, the date and the means of the payment. The information can't be about the nature of the service (professional secret).

Lawyers are not obliged to answer that neither to the tax authority not to the court. They keep their clients' secret.

[2]Meaning "The Information Processing and Action against Secret Financial Circuits". It is an administrative investigation service which belongs to the Ministry of economy and finances.

13. Can the lawyers nevertheless refuse to provide the requested information referring to professional secrecy?

Yes

This issue is contested. It is argued that lawyers, as long as they have not taken part in the investigated transaction, may refuse to provide the requested information by invoking both Greek constitutional rules providing, among others, for the protection of human value, privacy, personal data and secrecy of communication, as well as Articles 6 and 8 of ECHR providing for the right to a fair trial and to private life respective/y.

Besides, Greek Constitution (Article 19.3) stipulates that use of evidence acquired in violation of Articles 9 and 9A (protection of private life and personal data) is prohibited. In support of this view there is both ECHR and ECJ case law. indicative/y:

Case 1.12.2015 Brito Ferrinho Bexiga Villa Nova v. Portugal, according to which the protection of the secrecy of communication between a lawyer and his clientis the culmination of the right against self incrimination, Judgment of 18.5.1982 in Case 155/79 AM Kori 8 Europe Limited v Commission etc.

Quite recently there was a proposal to amend Article 15. 5 of the Greek Code of Tax Procedure, in terms of transposing EU Directive 2376/2015, by broadening the information lawyers are obliged to disclose to any transactions of their clients they are aware of (not only those between them and their clients). However, due to fierce protest by all Bar Associations the said amendment was ultimately withdrawn.

In Poland the spontaneous exchange of information is mostly relied in the cases of intra-community VAT supplies or in the direct taxation cases involving the movement of capital between two or more states. The common grounds the taxpayers contest such information are:

1) *lack of proper translation of acquired documents*

2) *lack of necessity to submit a request for information*

3) *the request was submitted to an foreign authority lacking competence*

If they are released from confidentiality, they are obliged to provide the information to the tax administration if they are asked for this information.

No, they have to provide the information that has been required if it´s pertinent, suitable and necessary to carry out certain, explicit and legitimate purposes. As has been said before, Article 93.5 LGT provides that professionals may not invoke professional secrecy as the sole basis to prevent compliance with the obligation to provide the required tax information. They may, of course, refuse to accept that they violate any of the limits established by international, Community or Spanish legislation.

They can, they can be fined but they still can refuse.

Yes he/she can. Lawyer needs to keep an information as a secrecy, because the information was provided by client or because the lawyer gets it as classified. Responsibility of keeping professional secrecy is also after closing the case and when all the the archive is diminished. Keeping professional secrecy commits the lawyer to refuse the data if he/she offer law help.

I can not imagine such a case

Yes, they can, unless the Court in exceptional cases rules out that the information has to be given.

Yes, only on the basis of legal professionals' privilege.

No they can't.

The lawyers can refuse to provide the requested information referring to professional secrecy.

They can when the information is not in the scope of provisions of art. L.86 LPF (features of a payment) or when the legal conditions for a "declaration of suspicion" are not fulfilled.

Otherwise, an unjustified refusal exposes to a fine.

Yes.

SPONTANEOUS EXCHANGE OF INFORMATION

14. Do you have experience with spontaneous exchange of information? Were any cases involving spontaneous exchanges of information brought the courts in your country by the taxpayers? If yes, on which grounds?

No.

No

No.

No, in the Spanish Supreme Court we've had no cases involving spontaneous exchanges of information.

No

No, there were no such cases.

15 – 20% of the information exchange concerns spontaneous exchange of information

The information may concern everything e.g. sending an invoice (for control reason), submitting the official stated transfer prices, information about the residence (right to tax) aso.

Case brought to my court: foreign taxpayer supplied goods in Austria (the other country couldn`t tax him with VAT and gave the information to Austria)

No, not any cases that I know of.

The CLO unit is responsible also for spontaneous exchange of information. No case dealing with spontaneous exchange of information was brought the courts by the taxpayers.

I don't have had experience with spontaneous exchange of information.

We have no experience with spontaneous exchange of information in our court - SAC.

There is one case at first level – administrative court where the court states that it is a ground for the stay of the proceedings until the information is received.

I don't have any experience with spontaneous exchange of information.

We have used testimonies given by witnesses in tax cases in Latvia, Lithuania and Norway in our own cases. We have translated the documents to Estonian here in Estonia.

RIGHTS OF THE TAXPAYERS and INFORMATION HOLDERS TO BE INFORMED ABOUT INFORMATION REQUESTS

15. Does the taxpayer get informed about the requests of information regarding him or herself?

There is no obligation to inform taxpayers about requests for information related to him / her. The taxpayer has the obligation to provide information requested by the tax authorities, within a certain period of time

However, in case the tax audit results in tax imputation, the taxpayer shall be eventually informed by tax authorities about its outcome based on the exchanged information upon receipt of the provisional tax assessment, against which he/she may submit his objections before the final tax assessmentis issued. (Article 28 of the Greek Code of Tax Procedure).

The taxpayer is normally not informed at the moment of submitting the request of information.

Yes. Before the automatic request by collecting the data from the bank institutes, the taxpayer has to be informed about the possibility of automatic data collection (§ 93 IX AO). After the data collection, he has to be informed about the implementation of the collection.

Yes, all taxpayers get informed about those requests that concern them. Taxpayers have the right to be informed of a decision of the tax authorities to make a request for information.

I think not

Every single person needs to be noticed about collecting, tooling and sending the information in the procedure of executing. When the data are not collected from the individual on which the persona data are referring to, the operator or its agent needs to provide next information to the individual, at the latest of the registration or intervention of personal data:

- the data about operator of personal data and his possible agent;

- the purpose of processing the personal data.

If there are some needs for reaffirmation of honest and constitutional processing of the personal data of the individual, following information should be reported:

- information about nature of the collected personal data;

information about the right of insight look, transcription, copying, completion, correction, blocking and deleting personal data which refers to the individual.

Yes,

- outgoing within the scope of gathering the information

- incoming within the assessment procedure

but there is no formal information provided

If a taxpayer himself has not declared the information, he has to be heard and offered an opportunity to comment.

Art. 23 of the Tax Procedure Code

A taxable entity or its representative shall be entitled to inspect the file of the taxable entity concerning its tax obligations. A taxable entity or its representative shall be entitled to inspect documents on the basis of which a request is being performed not sooner than after an outcome of such a request is obtained and can be used as evidence in the process of tax administration. A tax administrator shall be obliged to draw up an official record of every such inspection of file. A taxable entity or its representative shall not be entitled to inspect documents containing classified information and documents the disclosure of which would affect legitimate interests of other persons.

Amendment to the Tax Procedure Code (1.1.2018): – currently under the approval in the Parliament

A taxable entity or its representative shall be entitled to inspect documents on the basis of which a request is being performed not sooner than after an outcome of such a request is obtained and can be used as evidence in the process of tax administration, that shall not apply, if the competent authority of Member state or the competent authority of a contracting state declared he did not agree with providing the request to the taxpayer.

The taxpayer get informed about the requests of information if he has made an application. The tax administration is not obliged to give him information without his application.

The tax administration is not obliged to inform the tax payer about the requests of information.

If an information request is sought by a Member State about a French taxpayer, I suppose he is not informed about it, insofar as the right to be informed seems to be related to a tax adjustment procedure.

If the collected information is the founding of the tax adjustment, the taxpayer has the right to be informed before the implementation of tax collection. If the French tax administration intends to use the request of information to postpone the prescription of its action, the taxpayer has even to be informed before the request is filed and has to be informed of the answer of the Member State authorities.

If there is no need to postpone the prescription, the decision of adjustment has merely to display the relevant information (that is to say information which founds the said adjustment).

If a request of information is sought by the tax administration after the tax collection, the tax administration doesn't have to inform the taxpayer. If the content of the answer is brought before a court, the content can be disputed as well as usual means of information.

Yes.

16. Are they entitled to contest any elements of such information requests that they have been informed about? If yes, on which grounds?

The taxpayer may challenge any act issued by the Tax Administration against him/her, or in the case of implied refusal before Administrative Courts.

However, “information orders” in principle are merely preparatory acts and cannot be challenged directly.

Yet, in the context of exercising his/her right of prior hearing when the provisional tax assessment has been issued (as mentioned in question No 15) any taxpayer may contest before the tax administration the legality of the “information request” regarding him/her (for example alleging that it concerned information not foreseeably relevant or that it was in breach of the rules protecting secrecy) by contesting the legitimacy of the reasoning of the tax assessment, provided that the exchanged information is used to impose the tax obligation. Also, once the final tax assessment is issued the taxpayer may challenge this act before the tax administration authority and subsequently before Administrative Courts by submitting, among others, similar claims regarding the “information request” as those already mentioned.

Alternatively, due to the execution of a manifestly illegal “information request” by the requested authority an action for compensation could be filed against that State regarding pecuniary and/or non pecuniary damage.

It is not possible to contest the request for information at the moment of submitting it. However, when such procedure is concluded the taxpayer may contest the evidence acquired in this procedure and/or the need for such a request to be submitted.

They can only contest it in the procedure based on the obtained information. The result can be an exclusion of improperly obtained evidence.

Yes, taxpayers generally have the right to take their cases to court. All taxpayers are entitled to contest any element of those requests. However, since these requests are merely procedural, no appeals may be made against them, without prejudice to the appeals that may be lodged against the administrative act or acts issued in the application of such requests (main proceedings).

✓ Spanish Supreme Court sentences of 23 October 2001 (cassation appeal 4827/1995) and 20 June 2011 (cassation appeal 2284/2009).

No

On the individual request of the individual, the operator of the personal data needs to complete, block, delete or correct all the personal data for which the individual proves that the data is faulty, inexact or not up to date or are even collected in the contrast of the law. Individual about who the data are processing, has a right to request the termination the processing of the data. The basis is made on the Data Protection Act.

- outgoing, the taxpayers have the obligation to reveal all relevant facts

- incoming under the provisions of the assessment procedures

They can claim only on final decisions on information requests, not in the meanwhile on procedure.

They are not entitled to contest any elements of such information requests that they have been informed about, but they are entitled to contest evidences, which are the results of such a request (to contest in Tax Proceeding, Appellate Procedure or Court Proceeding) or they can contest incorrect official procedure.

No. They are entitled to contest the tax acts that used wrong information.

General clauses for contesting the administrative act are applied.

The correctness of the procedure, to which belongs the exchange of information, is relevant in the framework of the tax litigation. If the procedure is flawed, then the tax adjustment has to be cancelled. In this framework, the content of the information can also be contested to demonstrate that the tax adjustment is unfounded.

Yes, they have the right to get to know what kind of information has been collected, they can contest it, have a lawyer, suggest collecting of some other evidence. They have the same rights as in a court case.

17. Do the information holders get informed about the full contents of the information request by another Member State, including the identity of the taxpayer for whose case the information has been requested, according to the legislation of your Member State? (link to Berlioz case)?

There is no obligation to inform the data holders about the full content of the request for information by another Member State as secrecy issues may also arise. However, in the case that the tax audit results in tax imputations, he/she may request to receive copies of the documents on which the tax assessment is based.

Up to date a claim based on the Berlioz case in connection with the request for information procedure was not raised in the proceedings before Polish administrative courts.

Yes

The Spanish law includes confidentiality provisions which apply equally to the information and documents contained in any request received from other Member State as they do to the replies sent to them. Moreover, the treaties and TIEAs concluded by Spain exclude the parties involved from revealing information concerning, for example, confidential communication between the client and his attorney or information that would be contrary to public policy.

To get the requested information you ask for specific information. That will be the content of the requested information.

Holders of the data are not informed about the content of the information which was requested. Usually on the specified application the authority provides identity of the individual, who was checked or was in basis of the investigation for which the data was requested. If it is in best of holder knowledge and in accordance with international development, the name, surname and address of every person can be provided, for who the holder considers that he/she has sufficient information or even some other information which might facilitate collecting the data to other authorities.

As there is no specific information provided about the content of the request, so the answer is “no”.

In practice the information holder will realise it according to the questions.

I don´t know. But according to the information I have, this is not restricted.

The information holders are not informed about the full contents of the information request by another Member State. They are informed about the identity of the taxpayer for whose case the information has been requested, to be able to give information to the tax administration

No, they don't. They have to get informed about the purpose of the request.

The relevant person does not have a right of access to the whole of that request for information, which is to remain a secret document in accordance with Article 16 of Directive 2011/16.

The information holders can't seek for annulment of the information request (it is deemed to be a preliminary document). Nevertheless, I suppose that in the framework of litigation about a fine paid by the information holder because of his failure to comply with an information order, the validity of the information request could be contested (since the taxpayer can contest the validity of an information exchange in the framework of the litigation about the assessment of the tax).

I haven't seen any similar case though.

Yes. Yes, on any ground they find relevant. They do in all the time.

18. Can they contest the information requests before the courts? If yes, on which grounds?

No.

in Greece there is no pecuniary penalty provided for those information holders failing to comply with “information requests” (as in Berlioz case), without prejudice to Article 24A of Greek Law 4170/2013, as it has been amended by Article 7 of Law 4484/2017, which transposed the amending Directive 2016/881. According to the latter national provision a fine is imposed against the Ultimate Parent Entity of a MNE Group for failing to comply with its filing obligations stipulated in Article 8aa of DAC.

In any case, “information requests” are considered to be preparatory acts not only for the taxpayers subject to the tax investigation but also for information holders. Therefore they could not be contested directly before Courts. Besides, it is doubted whether information holders could in this context establish a legitimate interest in the annulment of such a request.

It is not possible to contest the request at the moment of submitting it. However the need to use that procedure and the documents required in such a procedure can be contested after the procedure is concluded (see answer to q. 14).

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The requests of information based on Article 93 of the General Tax Law 58/2003 of December, 17th., may be appealed, in the same way and under the same conditions as any other administrative act of the Spanish tax administration, pursuant to sections 213-249 of the law. For instance, if the requested person considers that the request was signed by an official with no competence to do so.

They get it when the court procedures starts.

An applicant on his own requirement has a right of getting from the court a public information in a way that an applicant gets it in sight or get the information’s copy or electronic record if the authorizing office decide that the information is public and free available or that the information does not belong in the statutory exception of the Article 6 of the Freedom of the Information Act.

For access of public information there are no any statutory need to show, because according to the Law of public information, all the public information is free available to everyone.

No

Yes, for example if they want to see a document regarding taxation on which taxation is based. They can contest whether a document is public or secret.

Before the courts they can contest the decision, which is the result of such a request and the evidence is based on or they can contest incorrect official procedure.

Yes, they can contest the information requests before the courts only if the information requests are not motivated.

They can not contest the information requests before the courts.

Only in case of when a pecuniary penalty has been imposed to the person for failure to comply with an administrative decision, directing him to provide information ('information order') in the context of an exchange between national tax administrations, pursuant to Directive 2011/16, that person is entitled to challenge the legality of that decision.

Yes.

19. Do the information holders get access to the full contents of the information request by another Member State, including the identity of the taxpayer for whose case the information has been requested, according to the legislation of your Member State? (link to Berlioz case)

There is no obligation to inform the data holders about the full content of the request for information by another Member State. However, in the case that the tax audit results in tax imputations, he/she may request to receive copies of the documents on which the tax assessment is based.

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See answer to question 17.

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The holders of the data do not get access to the full content of the requested information which was requested from the country member and it contain identity of personal data of taxpayers. Requested information is classified document. Usually just the next data is available: identity of the individual, which is in the purpose of investigation or check, or even tax intention for which the data are requested.

No but in a similar constellation (the information holder will be punished if he doesn`t give the information) he could successfully appeal against the punishment.

See number 17.

No, the information holders do not get access to the full contents of the information request (According to Art. 23 Tax Procedure Code - only the taxpayer and his representative have the access).

The information holders have to get access to the basic information of the request (identity of the taxpayer and the tax purpose).

The relevant person does not have a right of access to the whole of that request for information, which is to remain a secret document in accordance with Article 16 of Directive 2011/16.