

Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance
for the recovery of claims relating to taxes, duties and other measures

CHAPTER II

EXCHANGE OF INFORMATION

Article 5

Request for information

1 At the request of the applicant authority, the requested authority shall provide any information which is foreseeably relevant to the applicant authority in the recovery of its claims as referred to in Article 2.

For the purpose of providing that information, the requested authority shall arrange for the carrying-out of any administrative enquiries necessary to obtain it.

2 The requested authority shall not be obliged to supply information:

- a which it would not be able to obtain for the purpose of recovering similar claims arising in the requested Member State;
- b which would disclose any commercial, industrial or professional secrets;
- c the disclosure of which would be liable to prejudice the security of or be contrary to the public policy of the requested Member State.

3 Paragraph 2 shall in no case be construed as permitting a requested authority of a Member State to decline to supply information solely because this information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

4 The requested authority shall inform the applicant authority of the grounds for refusing a request for information.

Article 6

Exchange of information without prior request

Where a refund of taxes or duties, other than value-added tax, relates to a person established or resident in another Member State, the Member State from which the refund is to be made may inform the Member State of establishment or residence of the upcoming refund.

Article 7

Presence in administrative offices and participation in administrative enquiries

1 By agreement between the applicant authority and the requested authority and in accordance with the arrangements laid down by the requested authority, officials authorised by the applicant authority may, with a view to promoting mutual assistance provided for in this Directive:

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- a be present in the offices where the administrative authorities of the requested Member State carry out their duties;
- b be present during administrative enquiries carried out in the territory of the requested Member State;
- c assist the competent officials of the requested Member State during court proceedings in that Member State.

2 In so far as it is permitted under the legislation in force in the requested Member State, the agreement referred to in paragraph 1(b) may provide that officials of the applicant Member State may interview individuals and examine records.

3 Officials authorised by the applicant authority who make use of the possibilities offered by paragraphs 1 and 2 shall at all times be able to produce written authority stating their identity and their official capacity.