



HM Revenue
& Customs

Len Nesbitt

By email:

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Freedom of Information Team

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Date: 23 January 2020

Our ref: FOI2020/00135

Dear Len Nesbitt

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 21 January, for the following information:

“What driver partner information has been requested and obtained by HMRC under Schedule 23 FA 2011, from UBER BV (the data holder), as part of its efforts in ensuring tax compliance via third party information sharing, in line with HMRC's projected plans, consultation and publications?”

Please advise as to:

- a) the scope and range of the information obtained,
- b) if the information obtained is in bulk of all driver partners of UBER BV,
and
- c) the specific information contained within the data requested and received”

Some information held by HMRC is exempt from release under FOIA. This is because it relates to an identifiable person, including living individuals and legal entities, that we are legally required to keep confidential under the Commissioners for Revenue and Customs Act 2005 (CRCA). The FOIA therefore acknowledges that, where another law prevents the release of information, it is exempt and should not be released. There are specific circumstance in the CRCA where confidential information can be released, but this would never be under the FOIA. We will always respond to a request under the FOIA, but where the information being sought is exempt, we will ensure our reply does not release any confidential information or even indicate if anything is held.

Under section 44(2) of the FOIA we can therefore neither confirm nor deny whether information falling within scope of your request is held by the department. The legal position for this is provided below.

Outside of the FOIA, you may find [HMRC's Information Disclosure Guide](#) useful as it explains the restrictions around disclosing HMRC information and the limited circumstances in which we can lawfully disclose information about our customers.

Legal position

Section 44 of the FOIA applies when the requested information, if held, would be prohibited from disclosure by another piece of legislation.

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



In this instance, section 18(1) of the CRCA gives HMRC a duty of confidentiality which applies to all information it holds in connection with its functions. The prime examples of a function are the assessment and collection of tax; and the payment and management of tax credits. This is to make sure that information held on people and businesses would be protected and released only in controlled and limited circumstances.

When deciding whether we are prohibited from releasing information under FOIA by our duty of confidentiality, CRCA section 23(1) sets the following two questions:

- Would the requested information be held in connection with a function of HMRC?
- Would the information relate to a "person" who could be identified from the information requested?

The term "person" includes legal entities such as companies, trusts and charities, as well as living individuals (see Schedule 1 of the Interpretation Act 1978).

In this case, the answers to both questions is "Yes". Our duty of confidentiality therefore applies under CRCA section 18(1) and we are exempt from releasing the information under FOIA section 44(1)(a).

Sometimes even just confirming whether we hold the information could tell you something about this person. So FOIA section 44(2) exempts us from either confirming or denying whether we hold information as it would also breach the duty of confidentiality set out in section 18(1) of the CRCA.

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gov.uk, or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review you can [complain to the Information Commissioner's Office](#).

Yours sincerely,

Freedom of Information Team