



HM Revenue & Customs

Mr Georgios Christodoulou

By email:

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Date: 25 November 2020
Our ref: IR2020/02491

Dear Mr Christodoulou

Freedom of Information Act 2000 (FOIA)

Thank you for your email of 3 November 2020, asking us to review our original response to your information request.

Your request

On 22 October 2020, you asked about requests for the payment of Income Tax posted to anyone other than a person.

Our response

We replied on 2 November 2020, stating it would exceed the FOIA cost limit to determine if we held the information you wanted. We therefore refused your request under section 12(2) of the act.

Internal review request

In your email of 3 November 2020, you stated:

"I am writing to request an internal review of HM Revenue and Customs's handling of my FOI request 'Requests for payment'.

I asked if certain information was held - not the information itself.

Kindly now provide us with the answer, as a simple search should provide you with the answers.

If you would like a limit on your search, kindly limit it to income tax."

Internal review

The purpose of an internal review is to determine whether your request was handled correctly under the terms of the FOIA. We received your request on 22 October 2020 and responded by email on 2 November 2020. This was within the statutory deadline in compliance with section 10(1) of the FOIA. The response also set out our review procedure and your right to complain to the Information Commissioner, as required by section 17(7) of the FOIA.

Considerations

The principle behind the FOIA is to give people rights to access information held by public authorities.

Section 1 of the FOIA places two duties on public authorities:

- under section 1(1)(a), to confirm or deny if the requested information is held;
- under section 1(1)(b), to disclose information that has been confirmed as being held.

In our reply of 2 November 2020, we told you that we were not obliged to deal with your request because section 12(1) of the FOIA allows public authorities to decline to comply on the grounds of cost where these requests would be resource intensive.

Section 12 states:

12 Exemption where cost of compliance exceeds appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

...

(5) The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

Having considered your request, we estimate that it would take more than the appropriate limit to determine if the information you seek is held.

The “[appropriate limit](#)” is not an amount which might be charged by a public authority, but is intended as a benchmark to determine whether a request is onerous. In estimating whether complying with a request would exceed this limit, regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:

- determining whether it holds the information;
- locating the information, or a document containing it;
- retrieving the information, or a document containing it; and
- extracting the information from a document containing it.

We note that our response did summarise why we estimated that your request would exceed the cost limit. As part of this review, we have reviewed how this decision was made.

Estimating the cost of providing information

Pay As You Earn customers pay Income Tax and National Insurance through their employers; self-employed customers paying tax through the Self Assessment system. This means, ordinarily, we would not be issuing postal letters for such payments. And we are unable to determine when such letters would be sent to “anyone other than a person”, as businesses and other entities pay different taxes (Corporation Tax and VAT, for example), not Income Tax and National Insurance. Is it therefore not possible to confirm nor deny that we hold the information without exceeding the FOIA cost limit.

Refining the request

In circumstances where a request is refused under section 12, we are expected to provide advice and assistance in line with the provisions of section 16 of the FOIA. We will usually try to offer advice to help an applicant refine their request where possible to bring it within the cost limit. However, in some cases, the only advice we can provide is we do not see any scope for narrowing the request.

A request asking about all letters we have issued in relation to Income Tax is too broad to address within the FOIA cost limit parameters. It may be possible to consider your request further if you provided more detail about exactly what information you are seeking. However, as letters are sent by different teams across our department, and for numerous reasons, we cannot rule out the FOIA cost limit still applying to a refined request on this subject.

Conclusion

We have carefully considered the way we dealt with your original request, our response and the comments in your email of 3 November 2020. Our review has determined that section 12(2) of the FOIA was correctly applied.

The provisions of section 12 and 13 of the FOIA clearly allow for the possibility that a request might still be dealt with, irrespective of the cost limit. However, the act recognises that the right to information must be balanced against other competing public interest considerations. This includes the cost to the public purse of complying with obligations under the act, with the corresponding potential to undermine the delivery of front line services by diverting resources to searching for and supplying information.

In these circumstances, our duty under [section 16](#) of the FOIA is restricted to providing advice and assistance, "so far as it would be reasonable...to do so".

In cases where it is reasonable to "do so", the minimum a public authority should do in order to comply with section 16 is:

- either indicate if it is not able to provide any information at all within the appropriate limit;
- or provide an indication of what information could be provided within the appropriate limit;
- and provide advice and assistance to enable the requestor to make a refined request.

We are satisfied that this has been done.

Appeal process

If you are not content with the outcome of this internal review, a complaint can be made directly to the [Information Commissioner's Office](#).

Yours sincerely,

HM Revenue and Customs