



Fishing Expeditions

Case C-682/15 of 16 May 2017

Berlioz Investment Fund SA Vs “*Directeur de l’administration des Contributions directes*”

Some extracts from this recent sentence about information exchange and fishing expeditions:

“ ... Member States should exchange information concerning particular cases where requested by another Member State and should make the necessary enquiries to obtain such information. The standard of “foreseeable relevance” is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that Member States are not at liberty to engage in “fishing expeditions” or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer ...”

“ ... Reference must be made in this respect to the wording of recital 9 of Directive 2011/16, according to which the standard of ‘foreseeable relevance’ is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that Member States are not at liberty to engage in ‘fishing expeditions’ or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer ...”

“ ... As a number of governments and the Commission argued, this concept of foreseeable relevance reflects that used in Article 26 of the OECD Model Tax Convention, both because of the similarity between the concepts used and given the reference to OECD conventions in the explanatory memorandum to the proposal for a Council Directive COM(2009) 29 final of 2 February 2009 on administrative cooperation in the field of taxation, which led to the adoption of Directive 2011/16. According to the commentary on that article adopted by the OECD Council on 17 July 2012, Contracting States are not at liberty ‘to engage in fishing expeditions’, nor to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. On the contrary, there must be a reasonable possibility that the requested information will be relevant ...”

Maybe a light at the end of the tunnel

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PLEASE FEEL FREE TO CONTACT US WITH ANY QUESTIONS OR QUERIES.

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