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Date 26th March 2008
Our ref 1228/08
Your ref

Dear Mr Rosenbaum,

Thank you for your e-mail of 11 March 2008 in which you asked;

"For each of the past five tax years (i.e. 2002/3 to 2006/7), the names of the 50 companies which paid the largest amounts in corporation tax in that year and the sum each paid".

I am dealing with your request under the terms of the Freedom of Information Act 2000 (FOIA).

I can confirm that HMRC holds information falling within the scope of your request but am writing to advise you that it is being withheld. The exemption that applies is section 44(1) (a) FOIA which provides that information whose disclosure is prohibited by some other enactment is exempt from disclosure under the Act. Section 44 is an absolute exemption and I am not required to consider disclosure in the public interest.

HMRC has a duty of confidentiality in section 18(1) Commissioners for Revenue and Customs Act 2005 (CRCA) which says we may not disclose information we hold in connection with our functions. The information requested is held for our function of assessing and collecting corporation tax and relates to named companies. Section 23 CRCA applies the exemption in section 44 FOIA to information falling within s18(1) CRCA when it relates to a person who is identified. For the purposes of the CRCA person includes natural persons and legal entities such as companies (paragraph 110 of the explanatory notes).

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Comment [31]: This implies we have an existing list for each year ranking the top 50 companies and showing the tax they paid. If in reality we would have to create such lists using the Johnson principles it might be better to say 'I can confirm HMRC could obtain information falling etc'

The very basic thrust of the ruling is that the act does not require us to create new information to answer a request. The Tribunal ruled that if it could be created without the need to exercise 'skill and judgement' in less than 24 hours staff time we would be expected to do it. MOJ are looking for another case to take to appeal to get this overturned

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If you are not happy with this reply you may request a review by writing to HMRC FOI Team, Room 4/52, 100 Parliament Street London SW1A 2BQ. You must request a review within 2 months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by HMRC. He can be contacted at The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

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