

Report in relation to the Proposal presented by the Department of Economy, to be included in the Draft Law on fiscal and financial measures for 2022 (M-337)

Background

The Proposal presented by the Department of the Economy is presented to the Catalan Data Protection Authority, to be included in the Draft Law on fiscal and financial measures for 2022 (M-337), for the study and issuance of the corresponding report.

The text of the Proposal is accompanied by a copy of the General Report and the Impact Assessment Report.

Having examined the Proposal and the documentation that accompanies it, and having seen the report of the Legal Counsel, the following is reported.

Legal foundations

I

(...)

II

The Proposal presented by the Department of Economy to be included in the Draft Law on fiscal and financial measures for 2022 (hereinafter, the Proposal) aims to repeal the fourth additional provision of book two of the Tax Code of Catalonia, approved by Law 17/2017, of August 1.

Specifically, the wording of the Proposal is as follows:

"The fourth additional provision of the second book of the Catalan Tax Code, approved by Law 17/2017, of August 1, is repealed."

The fourth additional provision of book two of the Catalan Tax Code, to which the Proposal refers and which would be repealed, establishes the following:

"Fourth additional provision
Transfer of data to the General Directorate of Taxes and Gaming

1. The data, reports or records obtained by the Catalan Tax Agency may be transferred to the General Directorate of Taxes and Gambling to analyze and design the tax policy and draw up the general tax regulations, the own tax figures and the ceded taxes, within the framework of the regulatory powers of the Generalitat. The communication of the information must be done anonymously or, if the purpose pursued requires it, with the application of techniques of

pseudonymization that does not allow the identification of the affected persons by third parties other than the transferring entity.

2. The transfer of personal data to the General Directorate of Taxes and Gaming in accordance with the provisions of section 1 does not require the consent of the person concerned.”

The repealed provision enables the communication of data and information to the Directorate General of Taxes and Gaming by the Tax Agency of Catalonia so that this body can make effective a series of functions that are legally attributed to it.

According to the General Report that accompanies the Proposal, this regulation is insufficient, given that it becomes necessary to increase the efficiency of the performance of the Catalan Tax Administration as a whole, while expanding the subjects obliged to provide information, as well as the recipients of this information.

In this sense, it is pointed out that the proposal to add a new additional provision to the first book of the Tax Code of Catalonia, in order to regulate with full legal guarantees the supply of information between the bodies and entities that make up the Administration of Catalonia, means that the regulation subject to the fourth additional provision of the second book is outdated and its repeal becomes necessary.

This Authority has issued Report PD 13/2021 in relation to this Proposal to add a new additional provision to the first book of the Tax Code of Catalonia, to be included in the Draft Law on fiscal, financial and administrative measures for 2022 (M-336), which expands, as explained in the aforementioned Report, the scope of the treatment regulated in the fourth additional provision of the second book of the Tax Code of Catalonia regarding the subjects obliged to provide information and the subjects who are recipients

Without prejudice to the considerations made in Report PD 13/2021, to which we refer, for the purposes of interest in this report it should be noted that the express repeal of the fourth additional provision of book two of the Tax Code of Catalonia contributes to legal security and improves transparency towards potential affected persons regarding the processing of their data by the Tax Administration of Catalonia (Article 5.1.a) RGPD).

Therefore, from the perspective of data protection regulations, it would not pose any problems as long as the Draft Law on Fiscal, Financial and Administrative Measures for 2022 that is approved incorporates the additional provision in Book One of the Tax Code of Catalonia (M-336) - which would replace the current regulation - with the observations made in the PD 13/2021 report, in particular in Legal Basis VII, on the provision of adequate guarantees that ensure the right to protection of data of the affected persons.

Conclusions

Having examined the Proposal presented by the Department of the Economy, to be included in the Draft Law on Fiscal and Financial Measures for 2022 (M-337), it is considered adequate to the provisions established in the regulations on personal data protection, provided that the considerations made in this report are taken into account.

Barcelona, October 22, 2021