

Taxation of savings income in the form of interest payments

2008/0215(CNS) - 31/03/2009

The Committee on Economic and Monetary Affairs adopted the report by Benoît HAMON (PES, FR) amending, under the consultation procedure, the proposal for a Council directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments.

The main amendments are as follows:

Aim: the amended text states that the Directive aims to:

-enable savings income in the form of interest payments made in one Member State to beneficial owners who are individuals resident for tax purposes in another Member State to be made subject to effective taxation in accordance with the laws of the latter

Member State;

- ensure a minimum of effective taxation of savings income in the form of interest payments made in one Member State to beneficial owners who are individuals resident for tax purposes in another Member State.

Members note that the purpose of the Directive is redefined in the light of the option given to Member States to choose the exchange of information or withholding tax for the payment of interest.

Both economic operators and paying agents have obligations under the Directive.

Definition of beneficial owner: this is slightly amended in the new text.

Definition of paying agent: the committee made some changes and deleted the provision which states the option of being treated as an investment fund for those entities and legal arrangements to whose assets or income no beneficial owner is immediately entitled at the moment of receipt of the payment.

Definition of interest payment: this provision is amended, particularly with regard to the threshold 5% of the biometric risk for life insurance risk.

Transitional periods: the transition period shall end no later than **1 July 2014** or at the end of the first full fiscal year following the later of the dates given below, provided that this is earlier than 1 July 2014, inter alia: the date on which the Council agrees by unanimity that Hong Kong, Singapore and other Countries and territories listed under Annex I are committed to exchange of information upon request as defined in the OECD Model Agreement with respect to interest payments, made by paying agents established within their territory to beneficial owners resident in the territory to which the Directive applies.

Revenue sharing: Member States levying withholding tax shall retain 10% of their revenue and transfer 90% of the revenue to the Member State of residence of the beneficial owner of the interest.

Review: by 31st of December 2010, the Commission shall present a comparative study analysing advantages and weaknesses of both the systems of exchange of information and of the withholding tax so as to assess the objective of effective suppression of fiscal fraud and evasion. That comparative study should take into consideration, in particular, aspects of transparency, respect of fiscal sovereignty of the Member States, fiscal justice and administrative burden attached to any of the two systems.

The Commission shall examine, in particular, the appropriateness of extending the scope to all sources of financial income, including dividends and capital gains, as well as to payments made to all legal persons

Annex I: the committee extended both the list of jurisdictions concerned as well as that of the legal entities and arrangements. Annex I contains the list of legal forms of entities and legal arrangements to which Article 2(3) applies because of the presence within the territory of specific countries or jurisdictions of their place of effective management.