

# Excise duties: administrative cooperation

2011/0330(CNS) - 29/03/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 584 votes to 39, with 32 abstentions, in the framework of a special legislative procedure (consultation) a legislative resolution on the proposal for a Council regulation on Administrative Cooperation in the field of excise duties.

Parliament amends the proposal as follows:

**Characteristics of the system:** Parliament stresses that the creation of a European fiscal union should include an extended, rapid, efficient, user friendly and, as far as possible, automatic exchange of information among Member States in order to improve the fight against tax evasion. The **need to simplify bureaucratic procedures** is also highlighted.

**Cooperation on request:** Members deleted the obligation, for the requested authority, to immediately inform the requesting authority of the reasons for its decision that no administrative enquiry is necessary.

The requested authority may request the requesting authority to provide a report on the follow-up action taken by the requesting Member State on the basis of the provided information. If such a request is made, the requesting authority shall send such report as soon as possible.

**Form of the request and the reply and provision of documents:** in such exceptional cases, where the requested authority considers this to be necessary, the message shall be accompanied by an explanation of why the use of the mutual administrative assistance document was impractical.

**Simultaneous controls:** in order to assure the correct application of excise legislation, two or more Member States may agree, on the basis of a risk analysis, and **where appropriate**, to conduct simultaneous controls, in their own territory, of the excise duty situation.

**General limits to the duties of the requested authority:** Members have deleted the possibility for the competent authority of a Member State to refuse to forward information if the requesting Member State cannot, for legal reasons, provide similar information. The provision of information may be refused where it would demonstrably lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or where its disclosure would be contrary to public policy.

**Official secrecy, data protection and use of the information communicated under this Regulation:** the competent authority of the Member State providing the information may permit its use for other purposes in the Member State of the requesting authority, if the legislation of the Member State of the requested authority allows the information to be used for similar purposes in that Member State. Processing of personal data by Member States referred to in this Regulation shall be subject to the national provisions implementing Directive 95/46/EC. Personal data processed in accordance with this Regulation should be kept for no longer than is necessary, in compliance with the applicable national and Union law.

**Relations with third countries:** information obtained under this Regulation may be communicated by a competent authority of a Member State to that third country, with the consent of the competent authorities which supplied the information, in accordance with their national law, for the same purposes for which this information has been supplied and in compliance with Directive 95/46/EC.

**VAT and excise duty forum:** the Commission should establish a new VAT and excise duties forum, similar to the Joint Transfer Pricing Forum (JTPF), within which companies can address issues relating to corporate VAT and disputes between Member States.

**Evaluation of arrangements, collection of operational statistics and reporting:** Members consider that the Commission should have a well defined and active role in the examination and evaluation of the application of this Regulation. To that end, the Commission shall **regularly compare and analyse the experience of the Member States** with the aim of improving the operation of the system established by this Regulation.

The Commission shall present to Parliament and to the Council a report on **fraud** in the field of excise duties by 31 December 2012, together with amendments to this Regulation if appropriate.

Lastly, **every three years** (as opposed to five years) from the date of entry into force of this Regulation and based in particular on the information provided by the Member States, the Commission shall report to the European Parliament and to the Council on the application of this Regulation.