

Taxation: mandatory automatic exchange of information

2013/0188(CNS) - 11/12/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 360 votes to 59, with 287 abstentions, in the framework of a special legislative procedure (consultation of Parliament), a legislative resolution on the proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

The European Parliament, in its [resolution of 21 May 2013](#) on Fight against Tax Fraud, Tax Evasion and Tax Havens, Parliament had already requested the extension of automatic information exchange at Union and global levels with a view to combatting tax fraud, tax evasion and aggressive tax planning.

Parliament approved the Commission proposal, subject to the following amendments:

Scope of mandatory and automatic exchange of information: Parliament called for new categories of income and capital in respect of which the Directive introduces an obligation to exchange information to be established in accordance with their interpretation in the law of the Member State communicating the information.

Data protection: in light of the sensitivity of the data to be collected, specific attention should be paid to the respect for the right of privacy and to legitimate claims of confidentiality, in particular during any inquiry process. Member States shall take appropriate measures to protect the exchanged information from unauthorised access by third parties or by third countries.

Resources: Member States must make available the human, technological and financial resources needed for the implementation of this Directive, given the amount and the complexity of information, subject to the automatic exchange starting on 1 January 2015.

Negotiating mandate with third countries: from the date of entry into force of this Directive, only the Commission shall negotiate agreements with third countries on automatic exchange of information (AEOI) on behalf of the Union. From that date Member States shall not engage in bilateral agreements.

Penalties: Member State shall lay down penalties for breaches of the Directive and shall take the measures necessary to ensure compliance therewith. Such penalties shall be effective, proportionate and persuasive.

Evaluation: the Commission shall inform the European Parliament on an annual basis of the evaluations made by Member States regarding the effectiveness of automatic exchange of information.

Implementation of amendments: many of the proposed amendments to Directive 2011/16/EU on administrative cooperation in the field of taxation regulate the same information exchange with which FATCA and the work at the OECD are concerned. Members considered that the Commission should clarify the relationship between those regulatory provisions in order to ensure that the national tax authorities and the financial institutions responsible for applying those amendments are able to implement them.

Review: by 12 months after the date of entry into force of this Directive, the Commission shall review the functioning of this Directive and, if appropriate, submit a legislative proposal to the Council to provide for transparency of information exchanges.