

Taxation of savings income in the form of interest payments

2008/0215(CNS) - 24/03/2014 - Final act

PURPOSE: to ensure effective taxation of savings income in the form of cross-border interest payments which are generally included in all Member States in the taxable income of resident individuals.

LEGISLATIVE ACT: Council Directive 2014/48/EU amending Directive 2003/48/EC on taxation of savings income in the form of interest payments.

CONTENT: Directive 2003/48/EC requires the Member States to exchange information automatically so as to enable interest payments made in one Member State to residents of other Member States to be taxed in accordance with the laws of the state of tax residence.

The amending Directive **strengthens EU rules on the exchange of information on savings income**, aimed at enabling the member states to better clamp down on tax fraud and tax evasion.

Scope: the Directive enlarges the scope of directive 2003/48/EC, reflecting changes to savings products and developments in investor behaviour since it came into force in 2005.

The scope now covers new types of savings income and products that generate interest or equivalent income. It includes **life insurance contracts** containing a guarantee of income return or whose performance is at more than 40 % linked to income from debt claims or equivalent income covered by Directive 2003/48/EC should be included in the scope of that Directive.

The text also provides for a **broader cover of investment funds**. As regards investment funds not established in a Member State of the European Union or of the European Economic Area, it is necessary to make clear that the Directive encompasses interest and equivalent income from all those funds, irrespective of their legal form and of how they are placed with investors.

Beneficial owners: the Directive introduces measures to **improve the quality of information used to establish the identity and residence of beneficial owners**. In this regard, the paying agent should use both date and place of birth and, if any, the tax identification numbers or equivalent allocated by Member States.

Paying agents should apply a **'look-through approach'** to payments made to certain entities or legal arrangements established or having their place of effective management in certain countries or territories where Directive 2003/48/EC or measures to the same or equivalent effect do not apply.

In order to reduce the administrative burden on paying agents, an **indicative list** of entities and legal arrangements in the third countries and jurisdictions concerned by this measure is set out in an Annex.

New provisions seek to avoid the circumvention of Directive 2003/48/EC through artificial channelling of an interest payment via an economic operator established outside the Union.

Each Member State allocating tax identification numbers or equivalent shall, **by 31 December 2014**, inform the Commission about the structure and format of these numbers as well as of the official documentation containing information on allocated identification numbers.

Definition of interest payment: the Directive clarifies the definition of interest payment to ensure that not only direct investments in debt claims but also indirect investments are taken into account in the calculation of the percentage of the assets invested in such instruments.

Furthermore, in order to facilitate the application by paying agents of the Directive to income arising from undertakings for collective investment established in other countries, it should be made clear that the calculation of the composition of the assets for the treatment of certain income of such undertakings is governed by the rules laid down in the Member State of the European Union or of the European Economic Area in which they are established.

Report: the Commission shall report to the Council **every three years** on the operation of this Directive on the basis of the statistics, which shall be provided by each Member State to the Commission.

ENTRY INTO FORCE: 15.04.2014.

TRANSPOSITION: 01.01.2016 at the latest.