

Taxation: mandatory automatic exchange of information

2015/0068(CNS) - 18/03/2015 - Legislative proposal

PURPOSE: to ensure the mandatory automatic exchange of information between tax administrations regarding advance cross-border rulings and advance pricing arrangements.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: the challenge posed by cross-border tax avoidance, aggressive tax planning and harmful tax competition has increased considerably and has become a major focus of concern within the Union and at global level. In particular, **rulings concerning tax-driven structures** lead to a low level of taxation of artificially high amounts of income in the country giving the advance ruling and may leave artificially low amounts of income to be taxed in any other countries involved. An increase in transparency is therefore urgently required. The tools and mechanisms established by Council Directive [2011/16/EU](#) need to be enhanced in order to achieve this.

In its [resolution of 21 May 2013](#), the European Parliament emphasised that the EU should take a leading role in global discussions on the fight against tax fraud, tax avoidance and tax havens, in particular in relation to promoting the exchange of information.

The European Council, in its conclusions of 18 December 2014, underlined the urgent need to advance efforts in the fight against tax avoidance and aggressive tax planning, both at the global and Union levels.

The Commission work programme for 2015 lists among its priorities that of a fairer approach to taxation including by ensuring automatic exchange of information on tax ruling which is precisely the purpose of this proposal.

CONTENT: the draft directive amends Directive 2011/16/EU on administrative cooperation, as amended by [Directive 2014/107/EU](#), so as to ensure the **mandatory automatic exchange of information** regarding **advance cross-border rulings and advance pricing arrangements**, under certain conditions.

A new Article is inserted into the existing Directive, setting out **the scope and conditions** for the mandatory automatic exchange of information on types of tax rulings and transfer pricing arrangements. The new Article provides that the competent authorities of a Member State shall, by automatic exchange, communicate information about defined tax rulings that they issue or amend to the competent authorities of all other Member States. This obligation is extended to **rulings issued in the ten years before the date on which the proposed Directive takes effect** that are still valid on the date of entry into force of the Directive.

The proposed Directive also enables the possible creation by the Commission of a **secure central directory** concerning information communicated in the framework of this proposal. This central directory would both facilitate the exchange of information and support Member States in their job of studying and reacting to rulings exchanged between Member States.

BUDGETARY IMPLICATIONS: the impact on expenditure (operational appropriations) is estimated at EUR 2,100 million for the period 2016-2020. The costs of the additional IT tools and the possible central directory that the Commission may develop in the future to facilitate the communication of information between Member States as well as to provide for its storage would be funded out of the [FISCALIS 2020](#) programme which provides financial support for activities to improve administrative cooperation between tax authorities in the EU.