

EC/Switzerland agreement: taxation of savings income in the form of interest payments. Protocol

2015/0076(NLE) - 07/04/2015

PURPOSE: to conclude, on behalf of the European Union, the Amending Protocol to the Agreement between the European Community and Switzerland providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: following the adoption of [Council Directive 2003/48/EC](#), the Savings Directive, and in order to preserve the level playing field of economic operators, the EU signed Agreements with Switzerland providing for measures equivalent to those laid down in the Directive.

The importance of automatic exchange of information as a means to combat cross-border tax fraud and tax evasion by ensuring full tax transparency and cooperation between tax administrations worldwide has also been recognised at the international level. The Organisation for Economic Cooperation and Development (OECD) was mandated by the G20 to develop a **single global standard for automatic exchange** of financial account information. The Global Standard was released by the OECD Council in July 2014.

On the basis of a proposal presented by the Commission in June 2013, the Council adopted [Directive 2014/107/EU](#) amending Directive 2011/16/EU and extending the mandatory automatic exchange of information between EU tax authorities to a full range of financial items in accordance with the Global Standard.

As Directive 2014/107/EU is generally broader in scope than Directive 2003/48/EC and provides that in cases of overlap of scope, Directive 2014/107/EU prevails, on 18 March 2015 the Commission adopted a [proposal](#) to repeal Directive 2003/48/EC.

Therefore, the Commission considers it crucial to ensure that the amendment of the existing Savings Agreement with Switzerland is in line with EU and international developments. This will increase tax transparency in Europe and will be the legal basis for implementing the OCDE Global Standard on automatic exchange of information between Switzerland and the EU.

CONTENT: under this proposal, the Council is invited to approve, on behalf of the European Union, the Amending Protocol to the Agreement between the European Community and Switzerland providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

The Amending Protocol seeks to implement the **OECD Global Standard** between EU Member States and Switzerland. It introduces a new set of provisions comprising 11 Articles, an Annex I that reflects the OECD Common Reporting Standard which is part of the Global Standard, an Annex II that reflects important parts of the OECD Commentaries to the Global Standard and an Annex III that lists the Competent Authorities of Switzerland and of each Member State.

The new Articles reflect the articles of the OECD Model Competent Authority agreement for the implementation of the Global Standard. They include, *inter alia*:

- a full set of provisions on exchange of information upon request that follows the latest text of the OECD Model Tax Convention;
- a more detailed set of provisions on data protection;
- provisions on amendments to the Agreement, including a quick mechanism for provisional application by one of the Contracting Parties of amendments to the Global Standard, on the condition of consent by the other Party.

Moreover, the Amending Protocol:

- deals with issues on the transition from the existing Agreement to the amended Agreement, with regard to requests for information, credits available to beneficial owners for withholding tax, final payments of withholding tax by Switzerland to Member States and final exchange of information under the voluntary disclosure mechanism;
- contains a Protocol on additional safeguards related to the exchange of information on request, which Switzerland includes in its tax treaties. The text specifies that exchanges on the basis of a group request are not prevented. The Protocol on additional safeguards is in line with the Global Forum's Terms of Reference for exchange of information on request.

The revised Agreement is supplemented by four Joint Declarations of the contracting parties and one Unilateral Declaration by Switzerland.