Corporate tax: hybrid mismatches with third countries

2016/0339(CNS) - 29/05/2017 - Final act

PURPOSE: to prevent corporate tax avoidance by adopting rules that put an end to ‘hybrid mismatches ‘involving the tax regimes of third countries.

LEGISLATIVE ACT: Council Directive (EU) 2017/952 as regards hybrid mismatches with third countries.

CONTENT: the Directive aims to prevent corporate groups from exploiting the disparities between two or more tax jurisdictions to reduce their overall tax liability. To this end, it establishes rules to **close down 'hybrid mismatches'** with the tax systems of third countries.

Hybrid mismatches may enable a double tax deduction, this allowing certain corporations established in two jurisdictions (within and outside the EU) to reduce overall tax liability by exploiting disparities between two or more tax jurisdictions. Such arrangements can result in a **substantial erosion of the taxable bases** of corporate taxpayers in the EU.

The Directive amends Directive (EU) 2016/1164 on tax avoidance, which provides for a framework to tackle the most widespread forms of hybrid mismatches, but only within the Union. It also contributes to implementation of 2015 Organisation for Economic Co-operation and Development **(OECD)** recommendations addressing corporate tax base erosion and profit shifting (BEPS).

The amendments made to Directive (EU) 2016/1164 include rules on:

- hybrid mismatches involving permanent establishments, both in their intra-EU and third-country dimension;
- tax residency mismatches;
- hybrid transfers;
- imported mismatches;
- reverse hybrid mismatches.

The Commission will evaluate the implementation of the Directive 5 years after its entry into force and report to the Council.

ENTRY INTO FORCE: 27.6.2017.

TRANSPOSITION: by 31.12.2019 (31 December 2021 with respect to the provision on reverse hybrid mismatches.)

APPLICATION: the date of implementation is 1.1.2020 and 1.1.2022 with respect to reverse hybrid mismatches.