Mutual assistance for the recovery of claims relating to taxes, duties and other measures

2009/0007(CNS) - 18/12/2017 - Follow-up document

The Commission presented this report on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation.

Article 27 of the Directive requires a report on its application every five years from 1 January 2013.

As a reminder, while taxation remains still to a great extent a national issue, the economic environment has become more globalised, mobile and digital. Therefore, businesses are able to shift profits across borders, taxpayers can earn income from abroad without being taxed, and tax decisions of one Member State can have effects on other Member States' tax bases. To ensure all citizens and businesses contribute their fair share in the correct state Europe needs a **high degree of cooperation** between Member States.

The application of the Directive and the efforts in enhancing the administrative cooperation within the European Union represent the highest standards of cooperation among tax administrations worldwide. But, some issues remain. There is scope to **further improve administrative cooperation** to ensure that Member States and the European Union continue to lead the global movement towards a fairer and more transparent tax system

Main findings: from the analysis of the information gathered from the Member States, three key findings emerge in this report:

- DAC provisions have been implemented but not all of them effectively: further efforts are needed in the areas of the exchange of information on request (EOIR); the spontaneous exchange of information (SEOI); ways to cooperate other than exchange of information;
- the application of DAC exchange of information has resulted in a great increase in the amount of data tax administrations have to handle – but on average their capacity to do so has not increased at the same rate;
- the assessment of the benefits of DAC is carried out at a very early stage.

Way forward: according to the Commission, an improved, more transparent approach is needed in the EU to ensure that administrative cooperation contributes, and is seen to contribute, to the overall objective of a fair taxation for all.

Member States are encouraged to facilitate the exchange of information through the relevant tools available to them. The Commission will work with Member States experts to identify common ways to estimate the benefits of administrative cooperation reliably and comprehensively. By 1 January 2019, the Commission will prepare a report on automatic exchanges, covering also issues such as the administrative and other relevant costs and benefits of the automatic exchange of information, as well as its practical aspects.

Conclusion: the implementation and functioning of the Directive has implied a **significant investment by Member States**, on an ongoing basis, which nevertheless have made it one of the **most effective tools** for administrative cooperation. However, assessing its full impact is still a difficult task.

More than the amounts or number of exchanges, the Commission assumes that this Directive has had a significant **deterrent effect**, which is a key tool in the fight against tax evasion. In parallel, voluntary

disclosure programmes are, on a sporadic basis, put in place by different Member States. The impact of administrative cooperation in the amounts disclosed is difficult to quantify, while it is reasonable to expect that if it did not exist there would be no incentive for such disclosures. However, as a tool to fight tax avoidance and evasion, this is an unending work. After the necessary IT structure and common tools have been built for the administrative cooperation, the next step should be an **intensified use of all the tools**, analysis and use of the data received and efforts in improving reciprocally the qualitative content of the data exchanged.

New forms of cooperation and improvements to the current framework will be needed to address the dynamic nature of tax avoidance and evasion. The EU Member States have proven their commitment to administrative cooperation and will undoubtedly follow-up on this field.