Administrative cooperation in the field of taxation

2020/0148(CNS) - 09/02/2021 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, under a special legislative procedure (Parliament’s consultation), the report by Sven GIEGOLD (Greens/EFA, DE) on the proposal for a Council directive amending Council Directive 2011/16/EU on administrative cooperation in the field of taxation.

As a reminder, the proposed revision of the Administrative Cooperation Directive provides that Member States will automatically exchange information on the income generated by sellers on digital platforms. It also suggests a series of adjustments to the Directive, including provisions on joint audits between tax authorities, an explicit reference to the possibility for a Member State to make group requests to another Member State or clarification of the concept of foreseeable relevance.

The committee responsible recommended that the European Parliament approve the Commission proposal subject to amendments.

Procedure governing the exchange of information on request

The requested authority should provide information as soon as possible and no later than three months (instead of six months) from the date of receipt of the request.

Before 1 January 2023, the Commission should submit a report that provides an overview and an assessment of the statistics and information received on a country-by-country basis, on issues such as the administrative and other relevant costs and benefits, including incremental tax revenues and of exchanges of information on request.

Scope of the automatic and compulsory exchange of information

The competent authority of each Member State should, by automatic exchange, communicate to the competent authority of any other Member State all information that is available or could reasonably be made available concerning residents in that other Member State, on the following specific categories of income and capital as they are to be understood under the national legislation of the Member State which communicates the information.

The competent authority should not negotiate and agree new bilateral or multilateral advance pricing arrangements with third countries that do not permit their disclosure to competent authorities of other Member States as from 1 January 2022.

Members proposed including an obligation for the Commission to publish annually anonymised and aggregated statistical data from country-by-country reporting to all Member States.

Registration

Foreign platforms should be required to register and report in a single Member State for the purposes of their activities in the internal market, taking into account the location of their global or regional headquarters, their effective centre of management and the existence of substantial economic activities in the chosen Member State.

Disclosure of information and documents

Members proposed that information and documents received by a competent authority of a Member State under the Directive may be used for purposes other than tax purposes only insofar as it is allowed under the laws of the Member State of the competent authority receiving the information.

Assessment

Member States should communicate the results of their evaluation to the European Parliament and the Commission on an annual basis. A summary of those results should be made public, taking into account taxpayers' rights and confidentiality. The evaluation and analysis shared by Member States to the European Commission should be published insofar those evaluations do not disclose any information that can be attributable to a specific taxpayer.

The Commission would be required to publish annually anonymised summaries of the statistical data provided by Member States.

Excluded operators and activities

Members proposed including a definition of excluded relevant activities and excluded reporting platform operators in order to reduce the administrative burden on small platforms and to ensure that non-monetary and non-remunerated activities fall outside the scope.

Penalties

Members considered it useful to provide for certain types of sanctions that Member States can use against platforms that do not fulfil their obligations and to proceed with the harmonisation of sanctions in the Member States to encourage uniform and effective implementation by platforms.

Review

No later than two years after the date of entry into force of this amending Directive, the Commission should present a report on the implementation and efficiency of the provisions introduced by the Council Directive and make specific proposals, including legislative proposals, for the improvement of that Directive.

When examining a proposal presented by the Commission, the Council should assess further strengthening of the obligation to report by the Reporting Platform Operators.