

Taxation: administrative cooperation

2022/0413(CNS) - 13/09/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 537 votes to 57, with 60 abstentions, in the framework of a special legislative procedure (Parliament's consultation), a legislative resolution on the proposal for a Council directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation.

Parliament's position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Time limits

Where upon the receipt of the requested information, the requesting authority submits a follow-up request, the requested authority shall provide that further required information as soon as possible, and no later than three months after the date of receipt of the follow-up request.

Scope and conditions of mandatory automatic exchange of information

A new paragraph is included specifying that automatic exchange of information should be deemed to be complied with, where competent authorities of any other Member States can access such information either through the national registries or data retrieval systems or interconnected registries as provided for in a proposal for a directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

Members proposed that the competent authority should not negotiate and agree new cross-border 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 2026.

The competent authority of the Member State where the country-by-country report was received should also communicate that report to the competent services of the Commission, which is responsible for the centralised register of country-by-country reports. The Commission should publish anonymised and aggregated country-by-country report statistics on an annual basis for all Member States.

Crypto-assets

According to Members, tracking the transfers of crypto-assets is of high importance. Due to their opaque and volatile nature, crypto-assets could be used for illicit purposes. Therefore, additional categories of assets and income, such as crypto-assets, should now be covered.

Evaluation

Member States should communicate to the Commission any relevant information necessary for the evaluation of the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance and they should examine and evaluate the compliance costs that can result from a possible over-reporting situation. They should communicate on an annual basis the results of their evaluation to the European Parliament and the Commission.

Member States should communicate to the Commission a yearly assessment of the effectiveness of the exchange of information on request and of the automatic exchange of information, the degree of

cooperation with third countries, as well as the practical results achieved, including the incremental tax revenues associated and illicit practices identified with administrative cooperation. The information communicated should be disaggregated by the Commission, as a minimum to a country-by-country level.

Confidentiality

Information communicated to the Commission pursuant to this Directive should be kept confidential, insofar, as its non-disclosure does not harm public interest, the information can be attributed to a single taxpayer and its disclosure would infringe taxpayers' rights.

Penalties

Where a Member State provides for **penalties exceeding EUR 150 000**, it should establish a temporary penalty reduction regime for 3 years for SMEs. The penalties established should not exceed 1 % of the global turnover of the person required to report.

Reporting

Member States should monitor and assess in relation to their jurisdiction, the effectiveness of administrative cooperation in accordance with this Directive in combatting tax evasion and tax avoidance and should communicate the results of their assessment to the European Parliament and to the Commission once a year.

The Commission should take into account such results of the assessment from Member States for the purpose of advancing with further legislative reviews to address persisting loopholes and weaknesses of this Directive. It should also adopt a common framework for measuring the impact and the costs and benefits of this Directive.

By January 2026, the Commission should assess whether it is desirable to introduce a **European taxpayer identification number (TIN)** which would allow any authority to quickly, easily and correctly identify and record TINs in cross-border relations and serve as a basis for effective automatic exchange of information between Member States' tax administrations. The Commission may submit, where appropriate, a legislative proposal to the European Parliament and the Council.

Review

The amended text stated that by January 2026, the Commission should assess whether further **strengthening of the efficiency and functioning of the automatic exchange of information** and raising the standard thereof is needed.

The Commission should assess the need and the most appropriate way, and to present concrete proposals, to include the following ownership information, items of income and (non)-financial assets in the automatic exchange of information: (i) the beneficial owners of immovable property and companies; (ii) financial assets; (iii) non-financial assets such as cash, art, gold or other valuables held at free ports, customs warehouses or safe deposit boxes; (iv) ownership of yachts and private jets; (v) and accounts at larger peer-to-peer lending, crowdfunding and similar platforms.

Lastly, the directive should be transposed by **31 December 2026 at the latest**.