

# Taxation: administrative cooperation

2024/0276(CNS) - 28/10/2024 - Legislative proposal

**PURPOSE:** to improve the functioning of the existing provisions of Directive 2011/16/EU on administrative cooperation in the field of taxation.

**PROPOSED ACT:** Council Directive.

**ROLE OF THE EUROPEAN PARLIAMENT:** the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

**BACKGROUND:** Council Directive (EU) 2022/2523 (Pillar Two Directive) on ensuring a global minimum level of taxation for multinational enterprise groups (MNEs) and large-scale domestic groups in the Union introduces a qualified income inclusion rule (IIR), a qualified undertaxed profit rule (UTPR) and also allows Member States to introduce their own qualified domestic top-up tax (QDTT).

Article 44 of the Council Directive (EU) 2022/2523 already sets the rules for filing Top-up tax information returns and outlines broadly the information categories to be reported by the multinational enterprises (MNEs) and large-scale domestic groups (LSDGs) covered by that Directive as the tax administrations need those Top-up tax information returns to perform an appropriate risk assessment, to evaluate the correctness of the tax liability and to monitor whether the MNEs and LSDGs correctly apply the rules set out in Council Directive (EU) 2022/2523.

It is therefore appropriate to amend Council Directive 2011/16/EU to set up new rules on automatic exchange of information to facilitate the exchange of information with respect to the Top-up tax information return and thereby provide the framework for the operational implementation of Article 44 of Council Directive (EU) 2022/2523. Those rules should be in line with the OECD/G20 IF agreement and Model Rules.

This proposed directive represents the eighth amendment to the Directive on Administrative Cooperation (2011/16/EU).

**CONTENT:** the Commission proposes to amend the existing provisions on exchange of information and administrative cooperation and to extend the scope to automatic exchange of information in respect of information under the Directive on Administrative Cooperation to the reports filed by these multinational enterprises.

The proposal aims at ensuring a fair and efficient functioning of the internal market by facilitating central filing of the Top-up tax information return as defined in Directive 2022/2523/EU on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union. It also aims at safeguarding Member States' tax revenues by enabling information exchange with regard to the Top-up tax information return. This also contributes to deterring non-compliance.

The proposal will:

- provide for a **uniform template** for multinational enterprises groups (MNEs) and large-scale domestic groups in the scope of Directive 2022/2523/EU to file their Top-up tax information returns. This will significantly reduce their administrative burden since the Top-up tax information return will be the same in all Member States;

- enable MNEs falling within the scope of Directive 2022/2523/EU to file their Top-up tax information return **only once for the whole MNE** (central filing as opposed to the local filing method), which will reduce their administrative burden and significantly reduce the number of reports they would otherwise have to file.

Member States should take the necessary measures to enable the reporting entities of an MNE that is resident for tax purposes within the EU to file the Top-up tax information return within **15 months** after the last day of the Reporting fiscal year, except for the first Reporting fiscal year, where the filing must be done no later than 18 months after the last day of the Reporting fiscal year.

The relevant parts of the Top-up tax information return should be exchanged as soon as possible and, in any case, no later than **3 months** after the filing deadline for that Reporting fiscal year. For the first year of application of the Pillar Two Directive (i.e. Reporting fiscal year 2024), the deadline for exchanging the information is six months after the filing deadline.

The communication of information to competent authorities of other Member States will take place using the standard computerised form that will be developed by the Commission by means of an implementing act.

### ***Budgetary implications***

The cost for implementing this proposal is estimated at EUR 3.3 million for the period 2024-2027. It will be financed through redeployment of funds from the existing Fiscalis programme.