

Taxation of savings income in the form of interest payments. Savings Directive

2001/0164(CNS) - 03/06/2003 - Final act

PURPOSE : to enable savings income in the form of interest payments made in one Member State to beneficial owners who are individuals resident for tax purposes in another Member State to be made subject to effective taxation in accordance with the laws of the latter Member State. **COMMUNITY MEASURE** : Council Directive 2003/48/EC on taxation of savings income in the form of interest payments. **CONTENT** : in the absence of any coordination of national tax systems for taxation of savings income in the form of interest payments, particularly as far as the treatment of interest received by non-residents is concerned, residents of Member States are currently often able to avoid any form of taxation in their Member State of residence on interest they receive in another Member State. This situation is creating distortions in the capital movements between Member States, which are incompatible with the internal market. Member States shall take the necessary measures to ensure that the tasks necessary for the implementation of this Directive are carried out by paying agents established within their territory, irrespective of the place of establishment of the debtor of the debt claim producing the interest. The Directive is primarily concerned with cross-border 'interest' payments made to individuals who are EU residents and paid 'interest' from other EU states. 'Interest' payments include: * interest paid on an account, interest from a debt claim, income from government securities and income from bonds or debentures * interest accrued or capitalised at the sale, refund or redemption of a debt claim * interest realised upon the sale, refund or redemption of shares or units in Unregulated Collective Investment Trust Schemes /Collective Investment Schemes. The main elements of the Directive are as follows: - Member States adopt shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence; - the meaning of "paying agent" : it is the economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner; - the scope of this Directive should be limited to taxation of savings income in the form of interest payments on debt claims, to the exclusion, inter alia, of the issues relating to the taxation of pension and insurance benefits; - in view of structural differences, Austria, Belgium and Luxembourg cannot apply the automatic exchange of information at the same time as the other Member States. During a transitional period, given that a withholding tax can ensure a minimum level of effective taxation, especially at a rate increasing progressively to 35 %, these three Member States should apply a withholding tax to the savings income covered by this Directive; - in order to avoid differences in treatment, Austria, Belgium and Luxembourg should not be obliged to apply automatic exchange of information before the Swiss Confederation, the Principality of Andorra, the Principality of Liechtenstein, the Principality of Monaco and the Republic of San Marino ensure effective exchange of information on request concerning payments of interest; - these three Member States should transfer the greater part of their revenue of this withholding tax to the Member State of residence of the beneficial owner of the interest; - the Member State of residence for tax purposes of the beneficial owner should ensure the elimination of any double taxation of the interest payments which might result from the imposition of this withholding tax in accordance with the procedures laid down in this Directive. It should do so by crediting this withholding tax up to the amount of tax due in its territory and by reimbursing to the beneficial owner any excess amount of tax withheld. It may, however, instead of applying this tax credit mechanism, grant a refund of the withholding tax; - in order to avoid market disruption, this Directive should, during the transitional period, not apply to interest payments on certain negotiable debt securities; - this Directive shall not preclude Member States from levying other types of withholding tax than that referred to in this Directive on interest arising in their territories. So long as the United States of America, Switzerland, Andorra, Liechtenstein, Monaco, San Marino and the relevant dependent or associated territories of the Member States do not all apply measures equivalent to, or the same as, those provided for by this Directive, capital flight towards these countries and territories could imperil the attainment of its objectives. Therefore, it is necessary for the Directive to apply from the same date as that on which all

these countries and territories apply such measures. The Commission should report every three years on the operation of this Directive and propose to the Council any amendments that prove necessary in order better to ensure effective taxation of savings income and to remove undesirable distortions of competition. ENTRY INTO FORCE : 16/06/03. IMPLEMENTATION : 01/03/04. Member States shall apply these provisions from 1 January 2005 provided that: - the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council - all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories (the Channel Islands, the Isle of Man and the dependent or associated territories in the Caribbean) apply from that same date automatic exchange of information in the same manner as is provided for in the present Directive.