Basic information

2003/0170(CNS) CNS - Consultation procedure Directive	Procedure completed
Direct and indirect taxation: mutual assistance by the competent authorities (amend. Directive 77/799/EEC) **Subject** 2.70.01 Direct taxation 2.70.02 Indirect taxation, VAT, excise duties 2.80 Cooperation between administrations	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	KAUPPI Piia-Noora (PPE-DE)	01/09/2003

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	CROWLEY Brian (UEN)	01/10/2003

Council of the European Union

European Commission

Commission DG	Commissioner
Taxation and Customs Union	

Key events

Date	Event	Reference	Summary
31/07/2003	Legislative proposal published	COM(2003)0446	Summary
01/09/2003	Committee referral announced in Parliament		
02/12/2003	Vote in committee		Summary
02/12/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0466/2003	
15/01/2004	Decision by Parliament	T5-0026/2004	Summary
15/01/2004	Debate in Parliament		
21/04/2004	Act adopted by Council after consultation of Parliament		

21/04/2004	End of procedure in Parliament		
29/04/2004	Final act published in Official Journal		

Technical information

Procedure reference	2003/0170(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 094 EC Treaty (after Amsterdam) EC 093
Stage reached in procedure	Procedure completed

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0466/2003	02/12/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0026/2004 OJ C 092 16.04.2004, p. 0338-0383 E	15/01/2004	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	13790/1/2003	30/10/2003	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2003)0446	31/07/2003	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1403/2003 OJ C 032 05.02.2004, p. 0094-0097	29/10/2003	

Additional information

Source	Document	Date

European Commission	EUR-Lex	

Final act	
Directive 2004/0056 OJ L 127 29.04.2004, p. 0070-0072	Summary

Direct and indirect taxation: mutual assistance by the competent authorities (amend. Directive 77/799/EEC)

2003/0170(CNS) - 21/04/2004 - Final act

PURPOSE : to improve and clarify the rules on mutual assistance in the field of indirect taxation. LEGISLATIVE ACT : Council Directive 2004/56/EC amending Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums. CONTENT : Council Directive 77/799/EEC established the ground rules for administrative cooperation and the exchange of information between Member States in order to detect and prevent tax evasion and tax fraud and to enable Member States to carry out a correct tax assessment. This Regulation aims to improve, expand and modernise those rules. The main points are as follows: - when a Member State conducts enquiries in order to obtain the information necessary to respond to a request for assistance, that State will be regarded as acting on its own account; in that way, there will only be one set of rules applying to the information-gathering process and the investigation will not be undermined by delays; - if a Member State has received information from another Member State, it will not subsequently have to request permission to disclose the information in public hearings or judgements; - a Member State is not under any obligation to carry out enquiries in order to obtain the information necessary to respond to a request for assistance where either its legislation or administrative practices do not permit its competent authority to conduct enquiries or to collect such information; - the competent authority of a Member State may refuse information or assistance when the requesting Member State is not in a position to supply the same type of information, whether for reasons of fact or of law; - there is a legal requirement in certain Member States that a taxpayer must be notified of decisions and instruments concerning his tax liability. This may cause difficulties for the tax authorities, including cases where the taxpayer has relocated to another Member State. In such circumstances, the tax authorities may call upon the assistance of the competent authorities of the Member State to which the taxpayer has relocated; - since the tax situation of one or more persons liable to tax established in several Member States often is of common or complementary interest, it is now possible for simultaneous controls to be carried out to such persons by two or more Member States, by mutual agreement and on a voluntary basis; This may take place whenever such controls appear to be more effective than controls carried out by only one Member State; It should be noted that the Commission submitted its proposal for a Directive on the basis of Article 95 of the Treaty. The Council, taking the view that the proposal for a Directive related to the harmonisation of legislation in the field of both direct and indirect taxation and that the act should therefore be adopted on the basis of Articles 93 and 94 of the Treaty, consulted the European Parliament by letter dated 12 November 2003 informing it of the Council's intention of changing the legal basis. ENTRY INTO FORCE : 29 April 2004. DATE OF TRANSPOSITION : 1 January 2005.

Direct and indirect taxation: mutual assistance by the competent authorities (amend. Directive 77/799/EEC)

2003/0170(CNS) - 15/01/2004 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Pia-Noora KAUPPI (EPP-ED, Finland) and approved the proposal.

Direct and indirect taxation: mutual assistance by the competent authorities (amend. Directive 77/799/EEC)

2003/0170(CNS) - 31/07/2003 - Legislative proposal

PURPOSE : to modify certain provisions concerning Directive 77/799/EEC and to introduce two new elements on notification and on simultaneous controls of a business. CONTENT : Practices of tax evasion and tax avoidance, extending across the frontiers of Member States, lead to budget losses and violate the principle of fair taxation. In turn, these result in distortions of capital movements and conditions of competition and adversely affect the workings of the single market. Thus, there is a strong community interest in Member States being able to enforce their tax laws effectively. The cross-border nature of these offensive practices means that national measures on their own are not sufficient. Hence, provision is needed for Member States to be able to co-operate and to provide mutual assistance. The scope of the proposal is to modify several existing provisions of the Directive in order to make the language clearer and to shorten some of the procedures that need to be followed when assistance is requested. There are also some new elements. One of these concerns notification, in one Member State, of instruments or decisions originating in another Member State where a taxpayer has moved to the second state. Another makes provision for Member States to conduct simultaneous controls of a business that operates in a number of different countries. The Directive applies to direct taxation only because a separate instrument has been adopted for VAT and there is to be another

for excise duties. It is important to keep these aligned even though direct taxes are exclusively the competence of the Member States. The modifications are as follows: - the Directive is amended so that any request for information is treated as made under the domestic laws and practices of the State in which the authority collecting the information is situated. The text of the suggested amendment is identical to that contained in the proposal relating to VAT; - currently it is only possible to disclose information where the competent authority of the Member State that supplies it makes no objection. There is some debate on whether explicit approval is necessary or whether tacit approval is sufficient. The purpose of the text is to eliminate any possible delay, by rendering it unnecessary to suspend court action pending clarification, in those Member states that consider explicit approval is necessary. - it is made explicit that a Member State may not refuse to obtain and exchange information on the grounds that the information in question was not required for its domestic tax purposes; - a new article sets out the procedure to be followed where it is necessary to notify a taxpayer of instruments or decisions emanating from the administrative authorities of the Member State where the tax liability arises; - simultaneous controls are regarded as one of the most efficient ways in which competent authorities can exchange information. Abuses involving under-invoicing and over-invoicing, where transactions took place between related entities in cross-border situations (transfer-pricing), may be tackled by stepping up information exchange. Synchronised inspections would be one way of developing increased co-operation between tax administrations. The amendment to the Directive would make it possible to havethese types of controls but only where the competent authorities agreed that they wanted to take part.