

Proposal for a Council Directive on
Administrative cooperation in the field of taxation
(doc. 14297/1/10 REV 1 FISC 111)

Presidency Compromise proposal :
- Amended Article 8
- Addition of a new Council statement
- Addition of a new Article 23b

Amended Article 8

Scope and conditions of automatic exchange of information

1. The competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information regarding taxable periods as from 1 January 2014 that is 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:
 - (a) income from employment;
 - (b) director's fees;
 - ~~(c) dividends;~~
 - ~~(d) capital gains;~~
 - ~~(e) royalties;~~
 - (f) life insurance products not covered by other Community legal instruments on exchange of information and other similar measures;
 - (g) pensions;
 - (h) ownership of and income from immovable property.

2. **Before 1 January 2014 Member States shall inform the Commission of the categories listed in paragraph 1 in respect of which they have information available. They shall inform the Commission of any subsequent changes thereto.**

3. The competent authority of a Member State may indicate to the competent authority of any other Member State that it does not wish to receive information on the categories of income and capital mentioned in paragraph 1, or that it does not wish to receive information on income or capital not exceeding a threshold amount. It shall also inform the Commission thereof.

- 4. Before 1 July 2016 and before 1 July 2017, Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges and, to the extent possible, with information on the administrative and other relevant costs and benefits, relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.**
- 5. Before 1 July January 2018 the Commission shall submit a report that will provide an overview and an assessment of the statistics and information received, on issues such as evaluate the compliance costs and the benefits of automatic exchange of information as well as practical aspects linked thereto. and, If appropriate, the Commission shall present a proposal to the Council to review regarding the categories of income and capital and / or the conditions laid down in paragraph 1, including the condition that information concerning residents in other Member States has to be available.**

When examining a proposal put forward by the Commission, with the view to a possible adoption, [the Council shall assess further strengthening of the efficiency and harmonization of the automatic exchange of information and raising the standard thereof, with the aim to foresee that]:

- the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information regarding taxable periods as from 1 January 2018 concerning residents in that other Member State, on at least two of the specific categories of income listed in paragraph 1, as they are to be understood under the national legislation of the Member State which communicates the information;

- the list of categories in paragraph 1 be extended to include dividends, capital gains and royalties.

- 6. The communication of information shall take place at least once a year, within six months following the end of the tax year of the Member State during which the information became available.**
- 7. The Commission shall adopt the practical arrangements for the automatic exchange of information, in accordance with the procedure referred to in Article 24(2), before the dates referred to in Article 27(1).**
- 8. Where Member States agree on automatic exchange of information on additional categories of income and capital in bilateral or multilateral agreements which they conclude with other Member States, they shall communicate those agreements to the Commission which shall make these agreements available to all the other Member States.**

New statement by the Council concerning Article 8

In order to limit the administrative burden for tax administrations and third parties, and to limit investment costs, automatic exchange of information will start with only five specific categories of income. Should the evaluation report of the Commission to be published at the latest in 2018 demonstrate that automatic exchange of information functions adequately and that the balance of compliance costs and benefits is acceptable, it is the strong view of the Council to further strengthen efficiency and harmonization of the automatic exchange of information and to raise the standard thereof by making the automatic exchange of information unconditional at least for two categories and by extending the categories to dividends, capital gains and royalties.

New Article 23b
Transitional provision

1. Until 1 January [2016], where two Member States have agreed on a procedure within the framework of a tax convention including an article on exchange of information reflecting Article 26, paragraph 5, of the OECD 2005 Model Convention, that procedure shall apply.
 2. Member States which intend to apply paragraph 1 shall inform the Commission thereof.
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