











Procedure file

Basic information		
CNS - Consultation procedure Directive	2020/0148(CNS)	Procedure completed
Administrative cooperation in the field of taxation		
Amending Directive 2011/16 2009/0004(CNS)		
Subject		
2.70 Taxation		
2.80 Cooperation between administrations		

Key players				
European Parliament	Committee responsible	Rapporteur	Appointed	
	 Economic and Monetary Affairs		07/09/2020	
		 GIEGOLD Sven		
		Shadow rapporteur		
		 PEREIRA Lídia		
		 LALUCQ Aurore		
		 SEMEDO Monica		
		 BECK Gunnar		
		 ZĪLE Roberts		
		 PAPADIMOULIS Dimitrios		
	Committee for opinion	Rapporteur for opinion	Appointed	
	 Budgets	The committee decided not to give an opinion.		
	 Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.		
Council of the European Union European Commission	Commission DG Taxation and Customs Union	Commissioner GENTILONI Paolo		

Key events			
15/07/2020	Legislative proposal published	COM(2020)0314	Summary
14/09/2020	Committee referral announced in Parliament		
04/02/2021	Vote in committee		
09/02/2021	Committee report tabled for plenary, 1st reading/single reading	A9-0015/2021	Summary

08/03/2021	Debate in Parliament		
10/03/2021	Results of vote in Parliament		
10/03/2021	Decision by Parliament	T9-0072/2021	Summary
22/03/2021	Act adopted by Council after consultation of Parliament		
25/03/2021	Final act published in Official Journal		

Technical information

Procedure reference	2020/0148(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2011/16 2009/0004(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 113; Treaty on the Functioning of the EU TFEU 115
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/03546

Documentation gateway

Legislative proposal	COM(2020)0314	15/07/2020	EC	Summary
Document attached to the procedure	SEC(2020)0271	16/07/2020	EC	
Document attached to the procedure	SWD(2020)0129	16/07/2020	EC	
Document attached to the procedure	SWD(2020)0130	16/07/2020	EC	
Document attached to the procedure	SWD(2020)0131	16/07/2020	EC	
Document attached to the procedure	N9-0015/2021 OJ C 096 22.03.2021, p. 0009	28/10/2020	EDPS	
Committee draft report	PE658.793	09/12/2020	EP	
Amendments tabled in committee	PE663.118	11/01/2021	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0015/2021	09/02/2021	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T9-0072/2021	10/03/2021	EP	Summary
Commission response to text adopted in plenary	SP(2021)234	03/05/2021	EC	

Final act

[Directive 2021/514](#)
[OJ L 104 25.03.2021, p. 0001](#)

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 Decision.

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

BACKGROUND: as a result of the COVID-19 pandemic, Member States need sufficient tax revenue to finance their considerable efforts, while ensuring that the most vulnerable groups do not bear the burden of increasing such revenue. To achieve this, fair taxation, based on rules that ensure that everyone pays their fair share, while allowing taxpayers, be they businesses or citizens, to comply easily with the rules, is essential.

In the past years, the EU has focused its efforts on tackling tax fraud, tax evasion and tax avoidance and boosting transparency. While major improvements have been made in particular in the field of exchange of information, the evaluation of the application of [Council Directive 2011/16/EU](#) on administrative cooperation in the field of taxation⁶ showed that there is still a need to improve existing provisions that relate to all forms of exchanges of information and administrative cooperation.

The characteristics of the digital platform economy make the traceability and detection of taxable events by tax authorities very difficult. In addition to reinforcing existing rules, the expansion of administrative cooperation to new areas is required in the EU, in order to address the challenges posed by the digitalisation of the economy and help tax administrations better and more efficiently collect taxes and keep pace with new developments.

The present legislative proposal is part of a package for fair and simple taxation supporting the recovery of the EU, which includes a [Communication](#) for an Action Plan presenting a number of upcoming initiatives for fair and simple taxation supporting the recovery strategy, and a Commission [Communication](#) on Tax good governance in the EU and beyond.

IMPACT ASSESSMENT: as regards digital platform operators, the impact assessment indicates that the regulatory option at EU level is the most appropriate to implement the policy defined.

EU regulatory action shall put all tax authorities on an equal footing when it comes to the access to information collected for an identified tax purpose. This also allows for the automatic exchange of information at the EU level on the basis of common standards and specifications.

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 declared by operators of digital platforms.

Extension of EU tax transparency rules to digital platforms

Member States shall automatically exchange information on income earned through digital platforms. This shall not only allow national authorities to identify the situations in which the tax has to be paid, but shall also reduce the administrative burden on the platforms, which have to deal with several different national reporting obligations.

The proposal lays down the scope and conditions for the mandatory automatic exchange of information which will be reported by platform operators to competent authority. Detailed rules are laid down in Annex V.

The new rules shall impose on reporting platform operators the obligation: (i) to collect and verify information in accordance with due diligence procedures; (ii) to report information on sellers who use their platform to conduct their business and to sell their goods or provide their services.

The information reported by platform operators has to be communicated by the competent authorities of the Member States where the reporting took place to the Member States where the Reportable Seller is a resident and/or the immovable property is located.

Exchange of information on request

The proposal includes a definition of the standard of foreseeable relevance that would apply in the event of a request for information. The definition sets out the elements of the standard and the procedural requirements with which the requesting authority must comply. It also provides for the possibility for tax administrations to make group requests for information which may concern a group of taxpayers that cannot be identified by name or on an individual basis but can be designated solely on the basis of a common set of characteristics.

Administrative cooperation

The proposal improves the existing rules by: (i) introducing an obligation on the requested competent authority to respond to a request for the presence of an official of another Member State during an enquiry; (ii) providing for a 30-day time limit within which the requested authorities must respond to a proposal for a simultaneous control and (iii) establishing an explicit and clear legal framework for carrying out joint audits between two or more Member States.

Budgetary implications

The impact on expenditure, including administrative expenditure, is estimated at EUR 1 306 million over 5 years.

Administrative cooperation in the field of taxation

The Committee on Economic and Monetary Affairs adopted, under a special legislative procedure (Parliaments consultation), the report by Sven GIEGOLD (Greens/EFA, DE) on the proposal for a Council directive amending Council Directive 2011/16/EU on administrative cooperation in the field of taxation.

As a reminder, the proposed revision of the Administrative Cooperation Directive provides that Member States will automatically exchange information on the income generated by sellers on digital platforms. It also suggests a series of adjustments to the Directive, including provisions on joint audits between tax authorities, an explicit reference to the possibility for a Member State to make group requests to another Member State or clarification of the concept of foreseeable relevance.

The committee responsible recommended that the European Parliament approve the Commission proposal subject to amendments.

Procedure governing the exchange of information on request

The requested authority should provide information as soon as possible and no later than three months (instead of six months) from the date of receipt of the request.

Before 1 January 2023, the Commission should submit a report that provides an overview and an assessment of the statistics and information received on a country-by-country basis, on issues such as the administrative and other relevant costs and benefits, including incremental tax revenues and of exchanges of information on request.

Scope of the automatic and compulsory exchange of information

The competent authority of each Member State should, by automatic exchange, communicate to the competent authority of any other Member State all information that is available or could reasonably be made 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.

The competent authority should not negotiate and agree new 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 2022.

Members proposed including an obligation for the Commission to publish annually anonymised and aggregated statistical data from country-by-country reporting to all Member States.

Registration

Foreign platforms should be required to register and report in a single Member State for the purposes of their activities in the internal market, taking into account the location of their global or regional headquarters, their effective centre of management and the existence of substantial economic activities in the chosen Member State.

Disclosure of information and documents

Members proposed that information and documents received by a competent authority of a Member State under the Directive may be used for purposes other than tax purposes only insofar as it is allowed under the laws of the Member State of the competent authority receiving the information.

Assessment

Member States should communicate the results of their evaluation to the European Parliament and the Commission on an annual basis. A summary of those results should be made public, taking into account taxpayers rights and confidentiality. The evaluation and analysis shared by Member States to the European Commission should be published insofar those evaluations do not disclose any information that can be attributable to a specific taxpayer.

The Commission would be required to publish annually anonymised summaries of the statistical data provided by Member States.

Excluded operators and activities

Members proposed including a definition of excluded relevant activities and excluded reporting platform operators in order to reduce the administrative burden on small platforms and to ensure that non-monetary and non-remunerated activities fall outside the scope.

Penalties

Members considered it useful to provide for certain types of sanctions that Member States can use against platforms that do not fulfil their obligations and to proceed with the harmonisation of sanctions in the Member States to encourage uniform and effective implementation by platforms.

Review

No later than two years after the date of entry into force of this amending Directive, the Commission should present a report on the implementation and efficiency of the provisions introduced by the Council Directive and make specific proposals, including legislative proposals, for the improvement of that Directive.

When examining a proposal presented by the Commission, the Council should assess further strengthening of the obligation to report by the Reporting Platform Operators.

Administrative cooperation in the field of taxation

The European Parliament adopted by 568 votes to 63, with 64 abstentions, under a special legislative procedure (Parliaments consultation), a resolution on the proposal for a Council directive amending Council Directive 2011/16/EU on administrative cooperation in the field of taxation.

As a reminder, the proposed revision of the Administrative Cooperation Directive provides that Member States will automatically exchange information on the income generated by sellers on digital platforms. It also suggests a series of adjustments to the Directive, including provisions on joint audits between tax authorities, an explicit reference to the possibility for a Member State to make group requests to another Member State or clarification of the concept of foreseeable relevance.

Parliament approved the Commission proposal subject to amendments.

Procedure governing the exchange of information on request

A tax authority that receives a request for information should provide it within a maximum of three months, rather than six, from the date of receipt of the request.

Before 1 January 2023, the Commission should present a report giving an overview and assessment of the statistics and information received

on a country-to-country basis, on issues such as the administrative and other costs and benefits of exchange of information on request (including the number of requests accepted and refused), as well as the time taken to process them.

Scope of the automatic and compulsory exchange of information

The competent authority of each Member State should, by automatic exchange, communicate to the competent authority of any other Member State all information that is available or could reasonably be made 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.

The competent authority should not negotiate and agree new 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 2022.

Members proposed including an obligation for the Commission to publish annually anonymised and aggregated statistical data from country-by-country reporting to all Member States.

Registration

Foreign platforms should be required to register and report in one single Member State for the purpose of operating in the internal market, taking into account the location of their global or regional headquarters, their effective place of management as well as the existence of substantial economic activity in that chosen Member State, in the absence of identification for VAT purposes.

Disclosure of information and documents

Members proposed that information and documents received by a competent authority of a Member State under the Directive may be used for purposes other than tax purposes only insofar as it is allowed under the laws of the Member State of the competent authority receiving the information.

Assessment

Member States should communicate the results of their evaluation to the European Parliament and the Commission on an annual basis. A summary of those results should be made public, taking into account taxpayers rights and confidentiality. The evaluation and analysis shared by Member States to the European Commission should be published insofar those evaluations do not disclose any information that can be attributable to a specific taxpayer.

The Commission would be required to publish annually anonymised summaries of the statistical data provided by Member States.

Excluded operators and activities

Members proposed including a definition of excluded relevant activities and excluded reporting platform operators in order to reduce the administrative burden on small platforms and to ensure that non-monetary and non-remunerated activities fall outside the scope.

This would exclude reporting operators whose turnover in the EU in the previous calendar year did not exceed EUR 100 000.

Penalties

Members considered it useful to provide for certain types of sanctions that Member States can use against platforms that do not fulfil their obligations and to proceed with the harmonisation of sanctions in the Member States to encourage uniform and effective implementation by platforms.

Member States are especially encouraged to consider as penalties options for restrictions of regulated means of payment, the charging of additional consequential fees per transaction, the exclusion of public contracts and, in extreme and repeated cases, the revoking of the business licence of the platform operator.

Review

No later than two years after the date of entry into force of this amending Directive, the Commission should present a report on the implementation and efficiency of the provisions introduced by the Council Directive and make specific proposals, including legislative proposals, for the improvement of that Directive.

When examining a proposal presented by the Commission, the Council should assess further strengthening of the obligation to report by the Reporting Platform Operators.