

# Procedure file

Basic information	
CNS - Consultation procedure Directive	2001/0164(CNS)
Procedure completed	
Taxation of savings income in the form of interest payments. Savings Directive	
See also <a href="#">2004/0027(CNS)</a>	
See also <a href="#">2004/0191(CNS)</a>	
Amended by <a href="#">2008/0215(CNS)</a>	
Repealed by <a href="#">2015/0065(CNS)</a>	
See also <a href="#">2015/0076(NLE)</a>	
See also <a href="#">2015/0175(NLE)</a>	
See also <a href="#">2015/0244(NLE)</a>	
See also <a href="#">2015/0285(NLE)</a>	
See also <a href="#">2016/0109(NLE)</a>	
Subject	
2.50.02 Savings	
2.70.01 Direct taxation	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ECON</b> Economic and Monetary Affairs		11/09/2001
		PSE <a href="#">PÉREZ ROYO Fernando</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
<b>LIBE</b> Citizens' Freedoms and Rights, Justice and Home Affairs	The committee decided not to give an opinion.		
<b>JURI</b> Legal Affairs and Internal Market			20/03/2001
		V/ALE <a href="#">MACCORMICK Professor Sir Neil</a>	
<b>JURI</b> Legal Affairs and Internal Market			11/09/2001
		PPE-DE <a href="#">BARTOLOZZI Paolo</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2513</a>	03/06/2003
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2497</a>	19/03/2003
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2493</a>	07/03/2003
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2480</a>	21/01/2003
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2432</a>	04/06/2002
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2424</a>	07/05/2002
	<a href="#">General Affairs</a>	<a href="#">2416</a>	11/03/2002
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2401</a>	13/12/2001
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2393</a>	04/12/2001

## Key events

18/07/2001	Legislative proposal published	COM(2001)0400	Summary
03/09/2001	Committee referral announced in Parliament		
04/12/2001	Debate in Council	<a href="#">2393</a>	Summary
20/02/2002	Vote in committee		Summary
20/02/2002	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0061/2002</a>	
11/03/2002	Resolution/conclusions adopted by Council		
13/03/2002	Debate in Parliament		
14/03/2002	Decision by Parliament	<a href="#">T5-0116/2002</a>	Summary
07/05/2002	Debate in Council	<a href="#">2424</a>	Summary
04/06/2002	Debate in Council	<a href="#">2432</a>	
07/03/2003	Debate in Council	<a href="#">2493</a>	
19/03/2003	Debate in Council	<a href="#">2497</a>	Summary
03/06/2003	Act adopted by Council after consultation of Parliament		Summary
03/06/2003	End of procedure in Parliament		
26/06/2003	Final act published in Official Journal		

## Technical information

Procedure reference	2001/0164(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
	<p>See also <a href="#">2004/0027(CNS)</a></p> <p>See also <a href="#">2004/0191(CNS)</a></p> <p>Amended by <a href="#">2008/0215(CNS)</a></p> <p>Repealed by <a href="#">2015/0065(CNS)</a></p> <p>See also <a href="#">2015/0076(NLE)</a></p> <p>See also <a href="#">2015/0175(NLE)</a></p> <p>See also <a href="#">2015/0244(NLE)</a></p> <p>See also <a href="#">2015/0285(NLE)</a></p> <p>See also <a href="#">2016/0109(NLE)</a></p>
Legal basis	EC Treaty (after Amsterdam) EC 094
Stage reached in procedure	Procedure completed

## Documentation gateway

Legislative proposal		COM(2001)0400 <a href="#">OJ C 270 25.09.2001, p. 0259 E</a>	18/07/2001	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES1481/2001</a> <a href="#">OJ C 048 21.02.2002, p. 0055</a>	28/11/2001	ESC	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0061/2002</a>	20/02/2002	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0116/2002</a> OJ C 047 27.02.2003, p. 0417-0558 E	14/03/2002	EP	Summary
Implementing legislative act		<a href="#">32004D0587</a> <a href="#">OJ L 257 04.08.2004, p. 0007-0007</a>	19/07/2004	EU	Summary

## Additional information

European Commission	<a href="#">EUR-Lex</a>
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## Final act

[Directive 2003/48](#)  
[OJ L 157 26.06.2003, p. 0038-0048](#) Summary

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

**PURPOSE:** to ensure effective taxation of savings income in the form of interest payments within the Community. **CONTENT:** in 1997 the European Commission was requested to present proposals on ways in which to tackle harmful tax competition within the European Union. Community measures in this field were justified on the grounds that harmful taxation continued to distort the proper functioning of the single market as well as leading to excessive tax revenue loss. Accordingly, the European Commission prepared a number of initiatives including a proposed Directive aiming to establish a minimum of effective taxation of savings income in the form of interest payments within the Community. Initially, the ECOFIN Council agreed that the best approach towards this matter would be to establish a compromise model known as the "coexistence model", whereby each Member State would be able to choose between: - applying a withholding tax on interest payments made to individuals who are resident in other Member States - or providing information to the beneficial owner's Member State of residence. Gathering in Santa Maria da Feira in June 2000 the ECOFIN Council however adopted a new approach. Here, Member States agreed unanimously that the ultimate objective of the EU, in line with international developments, would be exchange of information on as wide a basis as possible. Importantly, it was also agreed that only a limited number of named Member States would be allowed to operate a transitional withholding tax and that these Member States would implement exchange of information as soon as conditions permit. In any case no later than 7 years after the entry into force of the Directive. This approach was strengthened later in November of that year and the following principles governing the proposed Savings Directive were agreed: - All Member States would exchange information with each of the other States seven years after the date on which the Directive enters into force. - Only Austria, Belgium and Luxembourg will exercise their option to operate the withholding tax during the transitional period. - The withholding tax to be applied by these three Member States will be 15% for the first three years of the transitional period and 20% for the remainder of the period. - These three Member States would transfer 75% of the revenue of the withholding tax to the Member State of residence of the investor. - The scope of the Directive will include interest from debt-claims of every kind and in particular income from domestic or international bonds, accrued interest realised at the sale, refund or redemption of such debt-claims, capitalised interest on zero-coupon bonds and similar products, income distributed by investment funds and capitalised interest from capitalisation funds in as far as such income or interest is attached to debt-claims. - To avoid market disruption for the duration of the transitional period, a "grandfathering clause" will apply. - The "paying agent principle" where by the last intermediary in any given chain of intermediaries who pays interest directly to, or secures the payment of interest for the immediate benefit of the beneficial owner should apply. In view of the changes proposed, the Commission is of the view that the 1998 proposal for a Directive no longer reflects the common opinion of Member States. The Commission has therefore decided to withdraw its 1998 proposal and present a new proposal for a Directive. The content and scope of the new proposal mirror, as much as possible, the agreements of the November 2000 ECOFIN Council?

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

The Council examined the outstanding issues in connection with the proposal for a Directive submitted by the Commission on 20 July 2001 with the aim of ensuring the effective taxation within the Community of savings income in the form of interest payments, including the main features of a standardised form for exchanging information. The discussions focused on the problems concerning the start and end of the transitional period. The Council also examined a series of questions concerning the determination of residence of beneficial owners, certain

investment thresholds for undertakings for collective investment in transferable securities and the minimum amount of information for each type of income. Following the discussions, the Council asked the High-Level Working Party to continue examining the outstanding issues. With regard to the transitional period, the President suggested that the Council's discussions be geared towards an automatic end accompanied by a procedure for evaluating the operation of the information exchange system as outlined in the Commission proposal. The President stated that the aim was still to reach political agreement in December on the text of the future Directive, including the standardised form for exchanging information and that the Council should make the necessary efforts to do so at its meeting on 13 December.?

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

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The committee adopted the report by Fernando PÉREZ ROYO (PES, E) broadly supporting the proposal under the consultation procedure, subject to a number of amendments. In line with the spirit of the agreements reached at the Feira Summit, the committee wanted to ensure that the same measures should be applied in dependent or associated territories and some third countries, an issue that the Commission had not addressed in its proposal. The report therefore called on Member States to ensure that the directive also applied to interest paid by paying agents in their associated or dependent territories (some of which were currently tax havens). Another amendment stipulated that the Community should negotiate with its main third country commercial parties to ensure that interest paid by third country entities to residents in the EU was treated in an equivalent fiscal way to that paid by European agents. The Commission should, moreover, inform Parliament of the progress of those negotiations. Finally, the committee adopted an amendment making it clear that, at the end of the 7-year transitional period allowed for Belgium, Luxembourg and Austria, those three countries should move automatically from levying a withholding tax to participating in the automatic exchange of information. No decision other than the entry into force of the directive would therefore be required. ?

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

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The European Parliament adopted a resolution on taxation of savings income based on the report by Fernando PEREZ ROYO (PES, Spain). The key amendments made are described in the document dated 20/02/02. In addition, and in order to eliminate any double taxation, Parliament provides that the paying agent of a UCITS may, when determining the withholding tax, take into account the withholding tax already levied by other Member States or third countries.?

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

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The Council heard a comprehensive report on the current state of play of negotiations on the taxation of savings income between the Commission and third countries as well as on the discussions between the Member States concerned and their dependent or associated territories. Commissioner Bolkestein reported that while talks with most third countries have started, negotiations have not yet formally begun with Switzerland. Switzerland is linking the tax issue to the opening of talks with the EU on a number of unrelated subjects, such as participation in the Schengen/Dublin acquis, liberalisation of trade in services and participation in audiovisual programmes, on which negotiating mandates should be agreed shortly by the Council. As regards dependent and associated territories, the United Kingdom informed the Council of the measures it had taken to secure agreement on the exchange of information. For its part, the Netherlands reported on the successful outcome of its discussions with the Dutch Antilles and Aruba. It is recalled that the Feira European Council of June 2000, confirmed by ECOFIN in November 2000, made the adoption of the directive on the taxation of savings conditional on measures of equivalent effect being agreed by several countries outside the European Union to prevent capital flight towards tax havens where savings taxation is less strict. According to the timetable for the tax package agreed by ECOFIN in July 2001, agreement should be reached by June of this year with several so-called "key countries", including Switzerland, the United States of America and Liechtenstein, while the UK and the Netherlands will have to agree arrangements with their associated or dependent territories, such as the Channel Islands, UK Caribbean territories and the Netherlands Antilles.?

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

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Following a deep debate at the Council, it seems that all delegations but one agree the present draft Directive as well as to the related draft statements for the minutes of the Council and the draft resolution of the Council and the representatives of the Governments of the Member States meeting within the Council. Moreover, all delegations but one state that subject to a final scrutiny by the High Level Group the draft agreement with Switzerland as submitted to the Council on 19 March 2003, including the extension of benefits of the parent/subsidiary and interest/royalty directives with a derogation for Spain, constitutes the final offer for an agreement between the EU and this country. The four elements of this agreement relating to the Savings Taxation constitute also the basis for agreements between the European Union and Liechtenstein, Andorra, Monaco and San Marino. All delegations but one encourage the Commission to finalise the draft agreement with the aforementioned European third countries as soon as possible.?

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

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**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.?

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

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The Council adopted the "Tax Package". In doing so, the Council adopted the Council Directive on taxation of savings income in the form of interest payments and the Council Directive on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States. It also agreed to the Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council on taxation of savings income in the form of interest payments. Lastly, it took note of the following statements for the Council minutes. With regard to the directive on taxation of savings: The Council reaffirms that the exchange of information, on as wide a basis as possible, is to be the ultimate objective of the European Union in line with international developments. It assesses that sufficient reassurances have been obtained with regard to the application of the same measures applying the same procedures as the 12 Member States or as Austria, Belgium and Luxembourg, in all relevant dependent or associated territories (the Channel Islands, Isle of Man, and the dependent or associated territories in the Caribbean) and asks the Member States concerned to ensure that all relevant dependent or associated territories will apply those measures from the date of implementation of the Directive, it being understood that, if and when Austria, Belgium and Luxembourg will implement automatic exchange of information, any territory applying the withholding tax will also implement automatic exchange of information from the same date as those Member States. The Council also states that chapter III with the exception of Articles 14 and 15 of the Directive shall not be granted to the new Member States. The Council calls on the Commission to continue negotiations, in close conjunction with the Presidency of the Council, with the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco, the Principality of Andorra and the United States of America, in order to press for the exchange of information as the ultimate objective of the European Community, and to report back to the Council by 31 December 2006 on the progress of those negotiations. The Commission is also called upon, during the transitional period referred to in Article 10 of the Directive, to enter into discussions with other important financial centres with a view to providing the adoption by those jurisdictions of measures equivalent to those to be applied within the Community. As regards the Directive on interest/royalties: The Council and the Commission agree that the benefits of the Interest and Royalty Directive should not accrue to companies that are exempt from tax on income covered by that Directive. The Council invites the Commission to propose any necessary amendments to this Directive in due time.?

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

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LEGISLATIVE ACT: Council Decision 2004/587/EC on the date of application of Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

CONTENT: Article 17(2) of Directive 2003/48/EC sets out the conditions for the application of the provisions of the Directive from 1 January 2005. In accordance with Article 17(3) of the Directive, the Council, on the basis of a report by the Commission, concluded before 1 July 2004 that the conditions set out in Article 17(2) of that Directive would not be met, having regard to the dates of entry into force of the relevant measures in the third countries and dependent or associated territories concerned. On the basis of reports from the Commission and Member States, it appears that each of the third countries and dependent or associated territories referred to in Article 17(2) of the Directive

will be able to meet the conditions set out in that paragraph by 1 July 2005. The date of 1 July 2005 should therefore be adopted as the new date for the purposes of Article 17(2).