



Dokument s plenarne sjednice

A8-0271/2015

29.9.2015

IZVJEŠĆE

o nacrtu odluke Vijećao sklapanju, u ime Europske unije, Protokola o izmjeni uz Sporazum između Europske zajednice i Švicarske Konfederacije o mjerama istovrijednim onima koje su utvrđene u Direktivi Vijeća 2003/48/EZ o oporezivanju dohotka od kamata na štednju (08266/1/2015 – C8-0169/2015 – 2015/0076(NLE))

Odbor za ekonomsku i monetarnu politiku

Izvjestitelj: Jeppe Kofod

Oznake postupaka

- * Postupak savjetovanja
- *** Postupak suglasnosti
- ***I Redovni zakonodavni postupak (prvo čitanje)
- ***II Redovni zakonodavni postupak (drugo čitanje)
- ***III Redovni zakonodavni postupak (treće čitanje)

(Navedeni se postupak temelji na pravnoj osnovi predloženoj u nacrtu akta.)

Izmjene nacrta akta

Amandmani Parlamenta u obliku dvaju stupaca

Brisanja su označena *podebljanim kurzivom* u lijevom stupcu. Izmjene su označene *podebljanim kurzivom* u obama stupcima. Novi tekst označen je *podebljanim kurzivom* u desnom stupcu.

U prvom i drugom retku zaglavlja svakog amandmana naznačen je predmetni odlomak iz nacrta akta koji se razmatra. Ako se amandman odnosi na postojeći akt koji se želi izmijeniti nacrtom akta, zaglavlje sadrži i treći redak u kojem se navodi postojeći akt te četvrti redak u kojem se navodi odredba akta na koju se izmjena odnosi.

Amandmani Parlamenta u obliku pročišćenog teksta

Novi dijelovi teksta označuju se *podebljanim kurzivom*. Brisani dijelovi teksta označuju se oznakom **■** ili su precrtani. Izmjene se naznačuju tako da se novi tekst označi *podebljanim kurzivom*, a da se zamijenjeni tekst izbriše ili precrta.

Iznimno, izmjene strogo tehničke prirode koje unesu nadležne službe prilikom izrade konačnog teksta ne označuju se.

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NACRT ZAKONODAVNE REZOLUCIJE EUROPSKOG PARLAMENTA

o nacrtu odluke Vijeća o sklapanju, u ime Europske unije, Protokola o izmjeni uz Sporazum između Europske zajednice i Švicarske Konfederacije o mjerama istovrijednim onima koje su utvrđene u Direktivi Vijeća 2003/48/EZ o oporezivanju dohotka od kamata na štednju (08266/1/2015 – C8-0169/2015 – 2015/0076(NLE))

(Savjetovanje)

Europski parlament,

- uzimajući u obzir nacrt odluke Vijeća (08266/1/2015),
 - uzimajući u obzir nacrt sporazuma između Europske zajednice i Švicarske Konfederacije o mjerama istovrijednim onima koje su utvrđene u Direktivi Vijeća 2003/48/EZ o oporezivanju dohotka od kamata na štednju (08297/2015),
 - uzimajući u obzir članak 115. i članak 218. stavak 6. podstavak 2. točku (b) i stavak 8. drugi podstavak Ugovora o funkcioniranju Europske unije na temelju kojih se Vijeće savjetovalo s Parlamentom (C8-0169/2015),
 - uzimajući u obzir članak 59. i članak 108. stavak 7. Poslovnika,
 - uzimajući u obzir izvješće Odbora za ekonomsku i monetarnu politiku (A8-0271/2015),
1. prihvaća nacrt odluke Vijeća s izmjenama i odobrava sklapanje sporazuma;
 2. izražava žaljenje zbog toga što se ne može ostvariti napredak, posebno u vezi s pruženim podacima te s automatskom, obvezujućom i neograničenom razmjenom podataka;
 3. poziva Komisiju da redovito obavještava Parlament o svim promjenama i novostima u vezi s posljednjim koracima prema sklapanju ovog sporazuma;
 4. podsjeća Vijeće da se mora ponovno savjetovati s Europskim parlamentom ako bude mijenjalo svoj nacrt odluke;
 5. podsjeća na važnost pokretanja učinkovite borbe protiv porezne prijevare i utaje poreza, posebno protiv poreznih prijevara i utaja poreza koje počine fizičke i pravne osobe smještene u Uniji uz sudjelovanje financijskih institucija smještenih u trećim zemljama;
 6. poziva Komisiju da 18 mjeseci nakon stupanja na snagu ovog Sporazuma ocijeni njegovu primjenu i rezultate te da Europskom parlamentu i Vijeću dostavi izvješće i prema potrebi prijedloge za njegovu reviziju;
 7. nalaže svojem predsjedniku da stajalište Parlamenta proslijedi Vijeću i Komisiji te vladama i parlamentima država članica i Švicarske Konfederacije.

Amandman 1

Nacrt odluke

Članak 2. – stavak 1.

Nacrt odluke

1. Predsjednik Vijeća u ime Unije šalje obavijest predviđenu u članku 2. stavku 1. Protokola o izmjeni⁴.

4 Datum stupanja na snagu Protokola o izmjeni objavit će Glavno tajništvo Vijeća u Službenom listu Europske unije.

Izmjena

1. Predsjednik Vijeća u ime Unije šalje obavijest predviđenu u članku 2. stavku 1. **i članku 4.** Protokola o izmjeni⁴ **kako bi se zajamčilo poštovanje pravila o automatskoj razmjeni informacija u pogledu računa o kojima se izvješćuje te kako bi se omogućila suradnja u području usklađenosti i izvršavanja.**

4 Datum stupanja na snagu Protokola o izmjeni objavit će Glavno tajništvo Vijeća u Službenom listu Europske unije.

Amandman 2

Nacrt odluke

Članak 2. – stavak 2.

Nacrt odluke

2. Komisija obavješćuje Švicarsku Konfederaciju i države članice o obavijestima koje su poslone u skladu s člankom 1. stavkom 1. točkom (d) Sporazuma između Europske unije i Švicarske Konfederacije o automatskoj razmjeni informacija o financijskim računima radi poboljšanja izvršavanja poreznih obveza na međunarodnoj razini **u skladu s Protokolom** o izmjeni.

Izmjena

2. Komisija obavješćuje Švicarsku Konfederaciju i države članice o obavijestima koje su poslone u skladu s člankom 1. stavkom 1. točkom (d) Sporazuma između Europske unije i Švicarske Konfederacije o automatskoj razmjeni informacija o financijskim računima radi poboljšanja izvršavanja poreznih obveza na međunarodnoj razini **što proizlazi iz Protokola** o izmjeni.

EXPLANATORY STATEMENT

Introduction

The European Union and Switzerland signed an agreement on 27 May 2015 on the automatic exchange of financial account information, aimed at improving international tax cooperation and compliance.

The agreement represents an important step in ongoing efforts to clamp down on tax fraud and tax evasion and upgrades the 2004 agreement that ensured that Switzerland applied measures equivalent to those in an EU directive on the taxation of savings income.

Under the agreement, the EU and Switzerland will automatically exchange information on the financial accounts of each other's residents, **starting in 2018**. The aim is to address situations where a taxpayer seeks to hide capital representing income or assets for which taxes have not been paid.

The agreement aims at ensuring that Switzerland applies strengthened measures that are equivalent to the EU directive, as upgraded in March 2014 (amending the Directive on Administrative Cooperation, "DAC2") and that it complies with the automatic exchange of financial account information promoted by the 2014 **OECD global standards**.

There are furthermore provisions intended to limit the opportunities for taxpayers to avoid being reported to the tax authorities by shifting assets or investing in products that are outside the scope of the agreement. Information to be exchanged concerns not only income such as **interest and dividends**, but also **account balances and proceeds from the sale of financial assets**.

Tax administrations in the member states and in Switzerland will be able to

- identify correctly and unequivocally the taxpayers concerned;
- administer and enforce their tax laws in cross-border situations;
- assess the likelihood of tax evasion being perpetrated;
- avoid unnecessary further investigations.

Your rapporteur welcomes the agreement, but also believes that there would be room for improvement. As this procedure does not allow for amendments to the proposed international agreement, these should be reflected in future similar agreements currently under negotiation with other third countries, and close to finalisation:

Article 2 - Automatic Exchange of information with respect to reportable accounts

- Point 2 a). Addition of full mandatory disclosure of full name and identification number - *The proposal does not require full and detailed information on the account owners, namely their full name and a mandatory disclosure of their tax identification number. In line with the effort to achieve absolute transparency and full disclosure of information, this should be a compulsory requirement.*

Article 3 - Time and manner of automatic exchange of information

- Point 3. Reporting lapse from yearly basis to a quarterly basis - *According to the present agreement, information is to be exchanged upon request from the competent authorities on a yearly basis. In the spirit of expeditious and efficient relay of information, the*

rapporteur finds the original timeframe to be too constrictive and prodigal and consequently suggests tightening the reporting cycle from a yearly basis to a quarterly basis.

Article 5 - Exchange of information upon request

- Point 1. Unconditional exchange of information - *In line with the effort to achieve absolute transparency and full disclosure of information between the parties, highlighting the unconditional and mandatory surrender of information should be required in order to safeguard the present agreement from legal constraints and the unilateral declaration from Switzerland to withhold any information which may be obtained illegally (read whistleblower findings).*

AND

- Point 2 c). The rapporteur suggests to delete the exemption of disclosure of information that is "contrary to the *ordre public*". - *In the same spirit as the former amendment, the exemption of disclosure of information that may be contrary to public policy ('ordre public') is a too broad and ambiguous conditionality and should therefore be deleted accordingly.*

Article 6 - Confidentiality and protection of personal data

- Point 3. The rapporteur suggests to delete the condition for exchange of information based on the previous approval of the competent authorities - *Upholding the spirit of full and unconditional exchange of information, the rapporteur suggests to remove the conditionality which required Member States or Switzerland to request consent to use the information exchanged and/or to share it with a third jurisdiction.*

Article 7 - Consultations and suspension of the agreement

- Point 1. Commission as binding mediator for disputes - *In the matter of disputes over interpretation of the present agreement, the rapporteur finds the present proposal to be too lenient to the parties involved. In order to promote a smooth implementation and execution of the present agreement, the rapporteur believes that the European Commission' binding arbitration for any disputes to be a clear and certain solution.*

Article 8 - Amendments

- Point 1. Flexibility to adjust to relevant EU legislation (not only OECD standards) - *Notwithstanding the present agreement safeguard for consultations when relevant changes on regulation at the OECD level occur, given that the European legal framework is in constant evolution the rapporteur has contemplated in the present agreement for the same consultations to occur when relevant European-level regulation/legislation is adopted.*

Article 9 - Dividends, interest and royalty payments between companies

- Point 2. Removal of exemptions. Emulated interest and royalty directive for coherence and consistency with EU legislation - *Having reviewed the Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payment, the rapporteur finds that the present agreement has added further conditionality which is counterproductive and reduces the scope of the information to be disclosed. In light of this, the scope for dividends, interests and royalty payments should be aligned with the current European legislation as a matter of coherence and consistency.*

Article 10 - Termination of agreement

- Same issue as article 7. Termination should be determined after binding mediation by the Commission - *In consistence with the amendments carried out on article 7, the termination of the present agreement must not be called unilaterally and should be subjected to approval by the European Commission binding mediation.*

Addition of:

Article 12 - Taken from the Declaration so to reinforce the binding implementation deadlines - *The current proposal misses a binding target for the implementation of the present agreement, as its implementation framework only consists of a non-binding declaration. In line with the fight that this body is carrying out against tax evasion and aggressive tax planning, a binding implementation target would be utmost required.*

The EU and Switzerland have agreed to conclude the agreement in time to enable **entry into force on 1 January 2017**, and your rapporteur very much urges that this deadline is respected.

REZULTAT KONAČNOG GLASOVANJA U ODBORU

Datum usvajanja	23.9.2015
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Zamjenici nazočni na konačnom glasanju	Philippe De Backer, Ildikó Gáll-Pelcz, Marian Harkin, Ramón Jáuregui Atondo, Eva Joly, Jeppe Kofod, Thomas Mann, Andreas Schwab, Antonio Tajani, Beatrix von Storch
Zamjenici nazočni na konačnom glasanju prema čl. 200. st. 2.	Joachim Starbatty