

### AUTOMATIC EXCHANGE OF INFORMATION ON TAX RULINGS

[ ARRIVED ]

#### > TAX TRANSPARENCY PACKAGE

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### CONTENT

The proposal to improve transparency and cooperation between Member States as regards their 'cross-border tax rulings', presented as part of the March 2015 tax transparency package, was a response to revelations concerning the very extensive use of tax rulings by multinationals in aggressive tax planning, as an amendment to Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC).

A tax ruling is an assurance that tax authorities give to taxpayers on how certain aspects of taxation will be dealt with in specific cases. An advance pricing arrangement is a type of tax ruling issued by tax authorities to determine the method and other relevant details of pricing to be applied to transfer of goods or services between companies.

On 27 October 2015, the European Parliament adopted a resolution calling for:

- the inclusion of all tax rulings in the automatic exchange of information (instead of only cross-border rulings), and coverage of all tax arrangements regardless of the formal or informal manner in which they were issued, and irrespective of their binding or non-binding nature;
- all remaining valid tax rulings to be covered, including those issued before the five-year time limit;
- Commission access to the tax rulings in the same way as Member States - the new rules would apply as of 1 January 2017;
- quicker exchanges: immediate exchange, and at the latest one month after the advance rulings or advance pricing arrangements have been issued or amended.

The Council adopted the directive on 8 December 2015 (Directive 2015/2376) which includes tax rulings on the scope of mandatory exchange of information (which was previously simply covered by the spontaneous exchange of information provision). As adopted by the Council, after consultation of the European Parliament, the amendment of the directive on administrative cooperation covers tax rulings going back five years from the date of implementation (that is, back to 1 January 2012) for cross-border, still valid, tax rulings, and three years (back to 1 January 2014) for those no longer valid. The Commission will receive a limited set of information for monitoring and assessing the proper application of the exchange of information, but this cannot be used for any other purpose. The exchange will be run over a six-month period.

The directive entered into force on 18 December 2015. Member States were due to adopt and publish by 31 December 2016 the laws, regulations and administrative provisions necessary to comply with the directive. The measures are being applied from 1 January 2017.

### References:

- EP Legislative Observatory, [Procedure file on a proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation](#), 2015/0068(CNS)
- [Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC](#)
- European Parliament, [Legislative resolution of 27 October 2015 on the proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation](#), 2015/0068(CNS)
- [Council Directive \(EU\) 2015/2376 of 8 December 2015 on mandatory automatic exchange of information in the field of taxation](#)

### Further reading:

- European Parliament, EPRS, [Tax transparency - automatic exchange of information between EU Member States on their tax rulings](#), Briefing, 2015
- European Parliament, EPRS, [Exchange of tax information](#), At a glance, October 2015

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