Council of the European Union agrees to extend the automatic exchange of information

On 14 October 2014, the Economic and Financial Affairs Council (ECOFIN), a configuration of the Council of Europe which is made up of the economics and finance ministers from all European Union (EU) Member States and relevant European Commissioners, agreed on a draft EU Directive extending the scope for the mandatory automatic exchange of information between tax administrations. This proposal brings interest, dividends and other income, as well as account balances and sales proceeds from financial assets, within the scope of the automatic exchange of information. This will happen through amending the existing directive 2011/16/EU on administrative cooperation (the DAC) in the field of direct taxation. The DAC provides a framework for mutual assistance between EU Member States and provides for the mandatory automatic exchange of information on certain categories of income (income from employment, director’s fees, life insurance products not covered by other Directives, pensions, ownership of and income from immovable property) and capital held by taxpayers in Member States other than their state of residence.

Interaction with the OECD’s Common Reporting Standard

The information released by the European Commission states that the DAC will “mirror the global standard of automatic information exchange agreed by the G20. In practice, this means that, from 2017, Member State tax authorities will automatically exchange information with each other on most categories of income and capital held by private individuals and certain entities.”

Potential concerns remain with respect to this approach in that if there are differences in this “mirroring” it will mean that the OECD’s (Organisation for Economic Co-operation and Development) Common Reporting Standard is not uniform across all adopting jurisdictions i.e., there is a potential for differences between EU and non-EU countries.
Interaction with the revised EU Savings Directive

The revised DAC covers a wide scope of income and capital, including most of that covered by the revised EU Savings Directive. In this regard, the Frequently Asked Questions document,² issued by the Commission, states that they will now consider its repeal. Assuming this occurs, this should be positive in that it would remove duplicative reporting. However, depending on the timing of events, there may be a period where institutions need to report the same income under both the DAC and the Savings Directive.

Next steps

The release indicates the new directive will be adopted at a forthcoming Council meeting without further discussion, once it has been finalized in all official languages. Based on Article 115 of the Treaty on the Functioning of the EU, it needs unanimity for adoption by the Council, after consulting the European Parliament. It should be noted that the next Council meeting is scheduled for 23 October 2014 and the directive is not on the current agenda.

Endnotes

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