Wednesday 10 March 2021

P9_TA(2021)0072

Administrative cooperation in the field of taxation *

European Parliament legislative resolution of 10 March 2021 on the proposal for a Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation (COM(2020)0314 — C9-0213/2020 — 2020/0148(CNS))

(Special legislative procedure — consultation)

(2021/C 474/29)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2020)0314),

— having regard to Articles 113 and 115 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C9-0213/2020),

— having regard to Rule 82 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A9-0015/2021),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission	*Amendment*
(1) In order to accommodate new initiatives of the Union in the field of tax transparency, Council Directive 2011/16/EU ([21]) has been the subject of a series of amendments over the last years. These changes mainly introduced reporting obligations, followed by communication to other Member States, related to financial accounts, advance cross-border rulings and advance pricing arrangements, country-by-country reports and reportable cross-border arrangements. In such a way, these amendments extended the scope of the automatic exchange of information. The tax authorities now have a broader set of cooperation tools at their disposal, to detect and tackle forms of tax fraud, tax evasion and tax avoidance.	(1) In order to accommodate new initiatives of the Union in the field of tax transparency, Council Directive 2011/16/EU ([21]) has been the subject of a series of amendments over the last years. These changes mainly introduced reporting obligations, followed by communication to other Member States, related to financial accounts, advance cross-border rulings and advance pricing arrangements, country-by-country reports and reportable cross-border arrangements. In such a way, these amendments extended the scope of the automatic exchange of information. The tax authorities now have a broader set of cooperation tools at their disposal, to detect and tackle forms of tax fraud, tax evasion and tax avoidance***, in order to safeguard tax revenues and to ensure fair taxation***.

([21]) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

([21]) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

Wednesday 10 March 2021

Amendment 2

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission	*Amendment*
	(1a) The broader set of cooperation tools, the digital transition and the aim of enhancing cooperation between national authorities require qualified human resources and adequate financial resources. To that end, the changes proposed must be accompanied by an adequate level of investment, mainly in the adaptation of informatics and digital infrastructure and professional training. Ultimately, Member States' capacity to process all financial information received should be enhanced and tax administrations' financial, human and IT resources should be increased.

Amendment 3

Proposal for a directive

Recital 2

Text proposed by the Commission	*Amendment*
(2) In the past years, the Commission has been monitoring the application and, in 2019, completed an evaluation of Directive 2011/16/EU ([22]). While significant improvements have been made in the field of automatic exchange of information, there is still a need to improve existing provisions that relate to all forms of exchanges of information and administrative cooperation.	(2) In the past years, the Commission has been monitoring the application and, in 2019, completed an evaluation of Directive 2011/16/EU ([22]). While significant improvements have been made in the field of automatic exchange of information, there is still a need to improve existing provisions that relate to all forms of exchanges of information and administrative cooperation. ***In order to take into account the evolution of the situation with regard to tax transparency, that Directive might need to be updated regularly.***

([22]) European Commission, Commission Staff Working Document, Evaluation of the Council Directive 2011/16/EU on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (SWD(2019)0328).

Wednesday 10 March 2021

Amendment 4

Proposal for a directive

Recital 3

Text proposed by the Commission	*Amendment*
(3) Pursuant to Article 5 of Directive 2011/16/EU, following a request of a requesting authority, the requested authority is to communicate to the requesting authority any information it has in its possession, or that it obtains as a result of administrative enquiries, which is foreseeably relevant to the administration and enforcement of the domestic laws of the Member States concerning the taxes falling within the scope of that Directive. To ensure effectiveness of the exchanges of information and prevent unjustified refusals of requests, as well as to provide legal clarity and certainty for both tax administrations and taxpayers, the standard of foreseeable relevance should be clearly delineated. In this context, it should also be clarified that the standard of foreseeable relevance should not apply to requests for additional information following an exchange of information in accordance with Article 8a of Directive 2011/16/EU concerning an advance cross-border ruling or an advance pricing arrangement.	(3) Pursuant to Article 5 of Directive 2011/16/EU, following a request of a requesting authority, the requested authority is to communicate to the requesting authority any information it has in its possession, or that it obtains as a result of administrative enquiries, which is foreseeably relevant to the administration and enforcement of the domestic laws of the Member States concerning the taxes falling within the scope of that Directive. To ensure effectiveness of the exchanges of information and prevent unjustified refusals of requests, as well as to provide legal clarity and certainty for both tax administrations and taxpayers, the standard of foreseeable relevance should be clearly delineated ***in line with the jurisprudence of the Court of Justice of the European Union which states that the term 'foreseeable relevance' is intended to provide for exchange of information in tax matters to the widest possible extent***. In this context, it should also be clarified that the standard of foreseeable relevance should not apply to requests for additional information following an exchange of information in accordance with Article 8a of Directive 2011/16/EU concerning an advance cross-border ruling or an advance pricing arrangement.

Amendment 5

Proposal for a directive

Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) The Union and the Member States should ensure a harmonised system of penalties and sanctions across the Union in order to prevent the exploitation by platform operators of loopholes and differences among Member States' taxation systems. Where the rules are infringed, financial penalties and exclusion from public contracts should be considered. In extreme and repeated cases, the possibility of revoking the business licence of the platform operator should be an option.

Amendment 6

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission	*Amendment*
	(4a) In order to keep taxpayers correctly and fully informed, the competent authorities of Member States should disclose the income categories with regard to which the information is automatically shared with competent authorities of other Member States and third countries or jurisdictions.

Amendment 7

Proposal for a directive

Recital 4 b (new)

Text proposed by the Commission	*Amendment*
	(4b) Any information regarding cross-border schemes with implications for third countries should also be disclosed to the tax authorities in those countries. That requirement should concern in particular developing countries, which often have a more limited access to international systems of exchange of tax information.

Amendment 8

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission	*Amendment*
	(6a) Proper identification of taxpayers is essential to effective exchange of information between tax administrations. A taxpayer identification number (TIN) should always be made available when required by Directive 2011/16/EU and a European TIN should be created to provide the best means for that identification. The European TIN would allow any third party to quickly, easily and correctly identify and record TINs in cross-border relations and serve as a basis for effective automatic exchange of information between Member States' tax administrations.

Wednesday 10 March 2021

Amendment 9

Proposal for a directive

Recital 7

Text proposed by the Commission	*Amendment*
(7) Tax administrations frequently request information from digital platform operators. This causes platform operators significant administrative and compliance costs. At the same time, some Member States have imposed a unilateral reporting obligation, which creates an additional administrative burden for platform operators, as they have to comply with multitude of national standards of reporting. It would therefore be essential that a standardised reporting obligation apply across the internal market.	(7) Tax administrations frequently request information from digital platform operators. This causes platform operators significant administrative and compliance costs. At the same time, some Member States have imposed a unilateral reporting obligation, which creates an additional administrative burden for platform operators, as they have to comply with ***a*** multitude of national standards of reporting. It would therefore be essential that a standardised reporting obligation apply across the internal market. ***That standardisation is essential in order to promote three major objectives: to minimise compliance costs for operators, to increase the efficiency of national authorities and to reduce bureaucracy for both taxpayers and tax administrations.***

Amendment 10

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission	*Amendment*
	(7a) The digitalisation of the economy is one of the cornerstones of the Union's future economic and growth strategy. The Union should be an attractive terrain for digital companies, in particular for their commercial, innovation and employment potential. However, digital goods and services tend to be highly mobile and intangible and therefore more prone to suffering from aggressive tax planning practices, since many business models do not require physical infrastructure in order to carry out transactions with customers and generate profits. That calls into question the suitability of the Union corporate tax models designed for brick and mortar industries, including with regard to the extent that valuation and calculation criteria could be reinvented to reflect the commercial activities of the 21st century. Moreover, that leads to a situation in which online sellers and sellers operating via platforms currently have the opportunity to generate revenues that are poorly reported and thus at high risk of remaining undertaxed or untaxed.

Wednesday 10 March 2021

Amendment 11

Proposal for a directive

Recital 13

Text proposed by the Commission	*Amendment*
(13) Given the digital nature and flexibility of digital platforms, the reporting obligation should extend to those platform operators that perform commercial activity in the Union but are neither residents for tax purposes, nor incorporated or managed nor have a permanent establishment in a Member State. This would ensure a level playing field among the platforms and prevent unfair competition. In order to facilitate this, foreign platforms should be required to register and report in one single Member State for the purpose of operating in the internal market.	(13) Given the digital nature and flexibility of digital platforms, the reporting obligation should extend to those platform operators that perform commercial activity in the Union but are neither residents for tax purposes, nor incorporated or managed nor have a permanent establishment in a Member State. This would ensure a level playing field among the platforms and prevent unfair competition. In order to facilitate this, 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.***

Wednesday 10 March 2021

Amendment 12

Proposal for a directive

Recital 14 a (new)

Text proposed by the Commission	*Amendment*
	(14a) Considering that the progressively digitised and globalised economy reveals complex and challenging dimensions, such as crypto-assets, it is important to increase cooperation between national tax administrations in that field. A clear definition of crypto-assets, taking into account the ongoing work within the OECD and FATF, is important in combating tax evasion and promoting fair taxation. The FATF adopted a broad definition of virtual currency and recommended incorporating within the scope of AML/CFT obligations any natural or legal person who conducts activities including exchange between crypto-assets, transfer of crypto-assets and participation in and provision of financial services related to initial coin offerings. The proliferation of crypto-currencies is a topical matter and should be considered in any effort to increase administrative cooperation, based on the principles of subsidiarity and proportionality. Also, given global technological advancement, there is a need for advanced supervisory mechanisms that are in close contact with the relevant counter-criminal financing bodies.

Wednesday 10 March 2021

Amendment 13

Proposal for a directive

Recital 15

Text proposed by the Commission	*Amendment*
(15) The objective of preventing tax evasion and avoidance could be ensured by requiring digital platform operators to report income earned through platforms at an early stage, before the national tax authorities carry out their yearly tax assessments. To facilitate the work of Member States' tax authorities, the reported information should be exchanged within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out electronically through the existing common communication network ('CCN') developed by the Union.	(15) The objective of preventing tax evasion and avoidance could be ensured by requiring digital platform operators to report income earned through platforms at an early stage, before the national tax authorities carry out their yearly tax assessments. To facilitate the work of Member States' tax authorities, the reported information should be exchanged ***without undue delay and at the latest*** within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges should be carried out electronically through the existing common communication network ('CCN') developed by the Union. ***The digital infrastructure should be resilient and guarantee the highest standard of security.***

Amendment 14

Proposal for a directive

Recital 15 a (new)

Text proposed by the Commission	*Amendment*
	(15a) This Directive should ensure that competent authorities can access data on the duration of rental contracts where short term property renting is limited in time, so as to facilitate the implementation of those limitations and a control over rental price increases in the Union.

Amendment 15

Proposal for a directive

Recital 15 b (new)

Text proposed by the Commission	*Amendment*
	(15b) Individuals who have access to information relating to sensitive tax information of platform operators and multinational corporations regarding tax evasion and tax avoidance practices, should be encouraged to come forward and cooperate with the authorities with discretion and respect for the public interest, and they should be fully protected if they do so.

Wednesday 10 March 2021

Amendment 16

Proposal for a directive

Recital 16

Text proposed by the Commission	*Amendment*
(16) The evaluation of Directive 2011/16/EU carried out by the Commission demonstrated the need for consistent monitoring of the effectiveness in the application of that Directive and of the national transposing provisions enabling this application. In order for the Commission to continue to properly monitor and evaluate the effectiveness of the automatic exchanges of information under Directive 2011/16/EU, Member States should be obliged to communicate the statistics on such exchanges to the Commission on an annual basis.	(16) The evaluation of Directive 2011/16/EU carried out by the Commission demonstrated the need for consistent monitoring of the effectiveness in the application of that Directive and of the national transposing provisions enabling this application. In order for the Commission to continue to properly monitor and evaluate the effectiveness of the automatic exchanges of information under Directive 2011/16/EU, Member States should be obliged to communicate the statistics on such exchanges to the Commission on an annual basis. ***They should also communicate to the Commission, on an annual basis, all relevant information related to obstacles for the proper implementation of that Directive***.

Amendment 17

Proposal for a directive

Recital 16 a (new)

Text proposed by the Commission	*Amendment*
	(16a) The Commission should within two years of the entry into force of this Directive present a report on the implementation and efficiency of the provisions that this Directive introduces into Directive 2011/16/EU and make specific proposals, including legislative proposals, for its improvement. That report should be made public.

Wednesday 10 March 2021

Amendment 18

Proposal for a directive

Recital 19

Text proposed by the Commission	*Amendment*
(19) Multilateral controls carried out with the support of the Fiscalis 2020 programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council ([5]) have demonstrated the benefit of co-ordinated controls of one or more taxpayers that are of common or complementary interest to two or more tax administrations in the Union. As there is no explicit legal base for conducting joint audits, such joint actions are currently conducted based on the combined provisions of Directive 2011/16/EU regarding the presence of foreign officials in the territory of other Member States and on simultaneous controls. However, in many cases this practice has proven to be insufficient and lacking legal clarity and certainty.	(19) Multilateral controls carried out with the support of the Fiscalis 2020 programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council ([5]) have demonstrated the benefit of co-ordinated controls of one or more taxpayers that are of common or complementary interest to two or more tax administrations in the Union. ***Therefore, on-site inspections and joint audits should be part of the Union framework of cooperation between tax administrations.*** As there is no explicit legal base for conducting joint audits, such joint actions are currently conducted based on the combined provisions of Directive 2011/16/EU regarding the presence of foreign officials in the territory of other Member States and on simultaneous controls. However, in many cases this practice has proven to be insufficient and lacking legal clarity and certainty. ***It is therefore important to eliminate that legal uncertainty and provide those controls with a legal basis within the framework of administrative cooperation.***

([5]) Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

([5]) Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

Wednesday 10 March 2021

Amendment 19

Proposal for a directive

Recital 20

Text proposed by the Commission	*Amendment*
(20) Member States should adopt a clear and efficient legal framework to allow their tax authorities to perform joint audits of persons with cross-border activity. Joint audits are administrative enquiries conducted jointly by the competent authorities of two or more Member States, to examine a case linked to one or more persons of common or complementary interest to these Member States. Joint audits can play an important role in contributing to the better functioning of the internal market. Joint audits should be structured to offer legal certainty to taxpayers through clear procedural rules, including for mitigating the risk of double taxation.	(20) Member States should adopt a clear and efficient legal framework to allow their tax authorities to perform joint audits of persons with cross-border activity. Joint audits are administrative enquiries conducted jointly by the competent authorities of two or more Member States, to examine a case linked to one or more persons of common or complementary interest to these Member States. Joint audits can play an important role in contributing to the better functioning of the internal market. Joint audits should be structured to offer legal certainty to taxpayers through clear procedural rules, including for mitigating the risk of double taxation. ***In addition to the legal framework required, Member States should provide for conditions that facilitate the organisation of joint audits at an operational level, notably by supporting training, including linguistic training, for staff likely to perform joint audits. It is recalled that the Fiscalis programme can provide financial support in that regard.***

Amendment 20

Proposal for a directive

Recital 21

Text proposed by the Commission	*Amendment*
(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified. The procedural arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally important that the competent authorities agree on the facts and circumstances of the case and endeavour to reach an agreement on how to interpret the tax position of the audited person(s). In order to ensure that the outcome of a joint audit can be implemented in the participating Member States, the final report should have equivalent legal value to the relevant national instruments that are issued as a result of an audit in the participating Member States. Where necessary, Member States should provide the legal framework for the performance of a corresponding adjustment.	(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified***, should only be allowed to be given for the reasons laid out in this Directive and should be subject to a right of response by the requesting authority***. The procedural arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally important that the competent authorities agree on the facts and circumstances of the case and endeavour to reach an agreement on how to interpret the tax position of the audited person(s). In order to ensure that the outcome of a joint audit can be implemented in the participating Member States, the final report should have equivalent legal value to the relevant national instruments that are issued as a result of an audit in the participating Member States. Where necessary, Member States should provide the legal framework for the performance of a corresponding adjustment.

Amendment 21

Proposal for a directive

Recital 24 a (new)

Text proposed by the Commission	*Amendment*
	(24a) It is equally important to emphasise that not only the exchange of information between tax authorities but also the sharing of best practices contributes to more efficient tax collection. In line with the Fiscalis 2020 Programme, Member States should give priority to the sharing of best practices among tax authorities.

Wednesday 10 March 2021

Amendment 22

Proposal for a directive

Recital 26

Text proposed by the Commission	*Amendment*
(26) In order to ensure uniform conditions for the implementation of Directive 2011/16/EU and in particular, for the automatic exchange of information between tax authorities, implementing powers should be conferred on the Commission to adopt a standard form, with a limited number of components, including the linguistic arrangements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([25]).	(26) In order to ensure uniform conditions for the implementation of Directive 2011/16/EU and in particular, for the automatic exchange of information between tax authorities, implementing powers should be conferred on the Commission to adopt a standard form, with a limited number of components, including the linguistic arrangements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([25]). ***The Commission is entitled to produce reports and documents, using the information exchanged in an anonymised manner, so as to take into account the taxpayers' right to confidentiality and in compliance with Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.***
([25]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	([25]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment 23

Proposal for a directive

Recital 26 a (new)

Text proposed by the Commission	*Amendment*
	(26a) Any processing of personal data carried out within the framework of Directive 2011/16/EU should continue to comply with Regulations (EU) 2016/679 and (EU) 2018/1725. The data processing provided for in Directive 2011/16/EU has the sole objective of serving a general public interest in the field of taxation, namely, combating tax fraud, tax avoidance and tax evasion, safeguarding tax revenues, and promoting fair taxation, which strengthens opportunities for social, political and economic inclusion in the Member States. Therefore, in Directive 2011/16/EU, the references to the relevant Union law on data protection should be updated and supplemented by the rules set out in this Directive.

Wednesday 10 March 2021

Amendment 24

Proposal for a directive

Article 1 — paragraph 1 — point 1 — point a

Directive 2011/16/EU

Article 3 — paragraph 1 — point 9 — point a

Text proposed by the Commission	*Amendment*
(a) for the purposes of Article 8(1) and Articles 8a, 8aa, 8ab and 8ac, the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals.	(a) for the purposes of Article 8(1) and Articles 8a, 8aa, 8ab and 8ac, the systematic communication of predefined ***and new*** information to another Member State, without prior request, at pre-established regular intervals.

Amendment 25

Proposal for a directive

Article 1 — paragraph 1 — point 1 a (new)

Directive 2011/16/EU

Article 3 — paragraph 1 — point 14

Present text	*Amendment*
	(1a) In Article 3, point 14 is amended as follows:
14. 'advance ***cross-border*** ruling' means any agreement, communication, or any other instrument or action with similar effects, including one issued, amended or renewed in the context of a tax audit, and which meets the following conditions:	'14. "advance ruling" means any agreement, communication, or any other instrument or action with similar effects, including one issued, amended or renewed in the context of a tax audit, and***, irrespective of its formal, informal, legally binding or non-binding nature,*** which meets the following conditions:
(a) is issued, amended or renewed by, or on behalf of, the government or the tax authority of a Member State, or the Member State's territorial or administrative subdivisions, including local authorities, irrespective of whether it is effectively used;	(a) is issued, amended or renewed by, or on behalf of, the government or the tax authority of a Member State, or the Member State's territorial or administrative subdivisions, including local authorities, irrespective of whether it is effectively used;
(b) is issued, amended or renewed, to a particular person or a group of persons, and upon which that person or a group of persons is entitled to rely;	(b) is issued, amended or renewed, to a particular person or a group of persons, and upon which that person or a group of persons is entitled to rely;
(c) concerns the interpretation or application of a legal or administrative provision concerning the administration or enforcement of national laws relating to taxes of the Member State, or the Member State's territorial or administrative subdivisions, including local authorities;	(c) concerns the interpretation or application of a legal or administrative provision concerning the administration or enforcement of national laws relating to taxes of the Member State, or the Member State's territorial or administrative subdivisions, including local authorities;
(d) relates to a cross-border transaction or to the question of whether or not activities carried on by a person in another jurisdiction create a permanent establishment; and	

Wednesday 10 March 2021

Present text	*Amendment*
(e) is made in advance of the transactions or of the activities in another jurisdiction potentially creating a permanent establishment or in advance of the filing of a tax return covering the period in which the transaction or series of transactions or activities took place. The ***cross-border*** transaction may involve, but is not restricted to, the making of investments, the provision of goods, services, finance or the use of tangible or intangible assets and does not have to directly involve the person receiving the advance ***cross-border*** ruling;	(e) is made in advance of the transactions or of the activities in another jurisdiction potentially creating a permanent establishment or in advance of the filing of a tax return covering the period in which the transaction or series of transactions or activities took place. The transaction may involve, but is not restricted to, the making of investments, the provision of goods, services, finance or the use of tangible or intangible assets and does not have to directly involve the person receiving the advance ruling;'

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Amendment 26

Proposal for a directive

Article 1 — paragraph 1 — point 1 b (new)

Directive 2011/16/EU

Article 3 — paragraph 1 — point 16

Text proposed by the Commission	*Amendment*
	(1b) In Article 3, point 16 is deleted.

Amendment 27

Proposal for a directive

Article 1 — paragraph 1 — point 2

Directive 2011/16/EU

Article 5a — paragraph 1

Text proposed by the Commission	*Amendment*
1. For the purposes of a request as referred to in Article 5, the requested information shall be deemed to be foreseeably relevant where at the time the request is made the requesting authority considers that, in accordance with its national law, there is a reasonable possibility that the requested information be relevant to the tax affairs of one or several taxpayers, whether identified by name or otherwise, and be justified for the purposes of ***the investigation***.	1. For the purposes of a request as referred to in Article 5, the requested information shall be deemed to be foreseeably relevant where at the time the request is made the requesting authority considers that, in accordance with its national law, there is a reasonable possibility that the requested information be relevant to the tax affairs of one or several taxpayers, whether identified by name or otherwise, and be justified for the purposes of ***assessing, collecting and managing taxes***.

Amendment 28

Proposal for a directive

Article 1 — paragraph 1 — point 2

Directive 2011/16/EU

Article 5a — paragraph 2

Text proposed by the Commission	*Amendment*
2. With the aim to demonstrate the foreseeable relevance of the requested information, the requesting competent authority shall provide the requested authority with supporting information***, in particular on the tax purpose for which the information is requested and the grounds that point to the requested information as being held by the requested authority or as being in the possession or control of a person within the jurisdiction of the requested authority***.	2. With the aim to demonstrate the foreseeable relevance of the requested information, the requesting competent authority shall provide the requested authority with supporting information.

Amendment 29

Proposal for a directive

Article 1 — paragraph 1 — point 3 a (new)

Directive 2011/16/EU

Article 7 — paragraph 1 — subparagraph 1

Present text	*Amendment*
	(3a) In Article 7(1), the first subparagraph is replaced by the following:
1. The requested authority shall provide the information referred to in Article 5 as quickly as possible, and no later than ***six*** months from the date of receipt of the request.	'1. The requested authority shall provide the information referred to in Article 5 as quickly as possible, and no later than ***three*** months from the date of receipt of the request.'

Wednesday 10 March 2021

Amendment 30

Proposal for a directive

Article 1 — paragraph 1 — point 3 b (new)

Directive 2011/16/EU

Article 7 — paragraph 6 a (new)

Text proposed by the Commission	*Amendment*
	(3b) In Article 7, the following paragraph is added:
	'6a. Before 1 January 2023, the Commission shall 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, of exchanges of information on request, as well as practical aspects linked thereto, including the number of accepted and refused requests received and sent per country, time required for handling and other relevant aspects for a comprehensive assessment.'

Amendment 31

Proposal for a directive

Article 1 — paragraph 1 — point 4 — point a

Directive 2011/16/EU

Article 8 — paragraph 1 — subparagraph 1 — introductory part

Text proposed by the Commission	*Amendment*
The competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State all information that is 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 of each Member State shall, 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:

Amendment 32

Proposal for a directive

Article 1 — paragraph 1 — point 4 — point a

Directive 2011/16/EU

Article 8 — paragraph 1 — subparagraph 3

Text proposed by the Commission	*Amendment*
Member States shall inform the Commission annually of ***at least two*** categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.	Member States shall inform the Commission annually of ***all*** categories of income and capital mentioned in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

Amendment 33

Proposal for a directive

Article 1 — paragraph 1 — point 4 — point a

Directive 2011/16/EU

Article 8 — paragraph 2

Text proposed by the Commission	*Amendment*
2. Before 1 January 2023, Member States shall inform the Commission of at least four categories listed in paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information concerning residents in that other Member State. The information shall concern taxable periods starting on or after 1 January 2024.	***deleted***

Wednesday 10 March 2021

Amendment 34

Proposal for a directive

Article 1 — paragraph 1 — point 4 — point a a (new)

Directive 2011/16/EU

Article 8 — paragraph 3 — subparagraph 1

Text proposed by the Commission	*Amendment*
	(aa) In paragraph 3, the first subparagraph is deleted.

Amendment 35

Proposal for a directive

Article 1 — paragraph 1 — point 4 — point b a (new)

Directive 2011/16/EU

Article 8 — paragraph 3a — subparagraph 2 — point a

Present text	*Amendment*
	(ba) In paragraph 3a, second subparagraph, point (a) is replaced by the following:
(a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is ***an*** Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence rules consistent with the Annexes, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;	(a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is ***the ultimate beneficial*** Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence rules consistent with the Annexes, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;

Amendment 36

Proposal for a directive

Article 1 — paragraph 1 — point 5 — point -a (new)

Directive 2011/16/EU

Article 8a — title

Present text	*Amendment*
	(-a) The title is amended as follows:
Scope and conditions of mandatory automatic exchange of information on advance ***cross-border*** rulings and advance pricing arrangements	'Scope and conditions of mandatory automatic exchange of information on advance rulings and advance pricing arrangements'
	(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Wednesday 10 March 2021

Amendment 37

Proposal for a directive

Article 1 — paragraph 1 — point 5 — point -a a (new)

Directive 2011/16/EU

Article 8a — paragraph 2 — subparagraph 4

Text proposed by the Commission	*Amendment*
	(-aa) In paragraph 2, the fourth subparagraph is deleted.

Amendment 38

Proposal for a directive

Article 1 — paragraph 1 — point 5 — point -a b (new)

Directive 2011/16/EU

Article 8a — paragraph 3 — subparagraph 2 a (new)

Text proposed by the Commission	*Amendment*
	(-ab) In paragraph 3, the following subparagraph is added:
	'The competent authority shall 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.'

Amendment 39

Proposal for a directive

Article 1 — paragraph 1 — point 5 — point -a c (new)

Directive 2011/16/EU

Article 8a — paragraph 4

Text proposed by the Commission	*Amendment*
	(-ac) Paragraph 4 is deleted.

Wednesday 10 March 2021

Amendment 40

Proposal for a directive

Article 1 — paragraph 1 — point 5 — point a a (new)

Directive 2011/16/EU

Article 8a — paragraph 6 — point a

Present text	*Amendment*
	(aa) In paragraph 6, point (a) is replaced by the following:
(a) the identification of the person, ***other than a*** natural ***person***, and where appropriate the group of persons to which it belongs;	'(a) the identification of the person, ***including*** natural ***persons***, and where appropriate the group of persons to which it belongs;'

Amendment 41

Proposal for a directive

Article 1 — paragraph 1 — point 5 — point b

Directive 2011/16/EU

Article 8a — paragraph 6 — point b

Text proposed by the Commission	*Amendment*
(b) a summary of the advance cross-border ruling or advance pricing arrangement, including a description of the relevant business activities or transactions or series of transactions and any other information that could assist the competent authority in assessing a potential tax risk, ***without leading*** to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.	(b) a summary of the advance cross-border ruling or advance pricing arrangement, including a description of the relevant business activities or transactions or series of transactions***, all relevant direct and indirect tax implications such as the effective tax rates,*** and any other information that could assist the competent authority in assessing a potential tax risk, ***but omitting information that could lead*** to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

Amendment 42

Proposal for a directive

Article 1 — paragraph 1 — point 5 a (new)

Directive 2011/16/EU

Article 8aa — paragraph 2

Present text	*Amendment*
	(5a) In Article 8aa, paragraph 2 is replaced by the following:
2. The competent authority of a Member State where the country-by-country report was received pursuant to paragraph 1 shall, by means of automatic exchange and within the deadline laid down in paragraph 4, communicate the country-by-country report to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes or subject to tax with respect to the business carried out through a permanent establishment.	'2. The competent authority of a Member State where the country-by-country report was received pursuant to paragraph 1 shall, by means of automatic exchange and within the deadline laid down in paragraph 4, communicate the country-by-country report to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes or subject to tax with respect to the business carried out through a permanent establishment. ***The competent authority of a Member State where the country-by-country report was received pursuant to paragraph 1 shall also communicate that report to the competent services of the Commission, which is responsible for the centralised register of country-by-country reports. The Commission shall publish anonymised and aggregated country-by-country report statistics on an annual basis for all Member States.'***

Amendment 43

Proposal for a directive

Article 1 — paragraph 1 — point 5 b (new)

Directive 2011/16/EU

Article 8ab — paragraph 14 — point h a (new)

Text proposed by the Commission	*Amendment*
	(5b) In Article 8ab, paragraph 14, the following point is added:
	'(ha) the list of beneficiaries, which is updated on a yearly basis.'

Wednesday 10 March 2021

Amendment 44

Proposal for a directive

Article 1 — paragraph 1 — point 6

Directive 2011/16/EU

Article 8ac — paragraph 2 — subparagraph 1 — point h

Text proposed by the Commission	*Amendment*
(h) the Financial Account Identifier to which the Consideration is paid or credited, ***insofar*** as it is ***available to*** the Reporting Platform Operator ***and the competent authority of the Member State where the Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose***;	(h) the Financial Account Identifier to which the Consideration is paid or credited, as it is ***collected by*** the Reporting Platform Operator;

Amendment 45

Proposal for a directive

Article 1 — paragraph 1 — point 6

Directive 2011/16/EU

Article 8ac — paragraph 2 — subparagraph 2 a (new)

Text proposed by the Commission	*Amendment*
	The information referred to in points (a) and (b) shall be made accessible to other authorities in receiving Member States in order to deter and prosecute infringements of local or national laws or regulations, without prejudice to the rules on tax secrecy and data protection applicable in the Member State in which the Reportable Seller is resident.

Amendment 46

Proposal for a directive

Article 1 — paragraph 1 — point 6

Directive 2011/16/EU

Article 8ac — paragraph 3

Text proposed by the Commission	*Amendment*
3. The communication pursuant to paragraph 2 shall take place using the standard form referred to in Article 20(7) within ***2 months*** following the end of the Reportable Period to which the reporting obligations of the Reporting Platform Operator relate.	3. The communication pursuant to paragraph 2 shall take place using the standard form referred to in Article 20(7) ***without undue delay and at the latest*** within ***one month*** following the end of the Reportable Period to which the reporting obligations of the Reporting Platform Operator relate.

Amendment 47

Proposal for a directive

Article 1 — paragraph 1 — point 6

Directive 2011/16/EU

Article 8ac — paragraph 4 — subparagraph 2

Text proposed by the Commission	*Amendment*
Member States shall lay down rules pursuant to which a Reporting Platform Operator may choose to register with the competent authorities of a single Member State in accordance with the rules laid down in paragraph F of Section IV of Annex V.	Member States shall lay down rules pursuant to which a Reporting Platform Operator may choose to register with the competent authorities of a single Member State in accordance with the rules laid down in paragraph F of Section IV of Annex V***, taking into account the location of its global or regional headquarters, its 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 as indicated in paragraph F of Section IV of Annex V***.

Amendment 48

Proposal for a directive

Article 1 — paragraph 1 — point 7 — point a

Directive 2011/16/EU

Article 8b — paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges under Articles 8(1), 8(3a), 8aa and 8ac and with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.	1. Member States shall provide the Commission on an annual basis with ***all relevant material information, including*** statistics on the volume of automatic exchanges ***as well as an assessment of the usability of the data being exchanged*** under Articles 8(1), 8(3a), 8aa and 8ac, and with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.

Amendment 49

Proposal for a directive

Article 1 — paragraph 1 — point 7 — point b

Directive 2011/16/EU

Article 8b — paragraph 2

Text proposed by the Commission	*Amendment*
(b) Paragraph 2 is deleted.	***deleted***

Wednesday 10 March 2021

Amendment 50

Proposal for a directive

Article 1 — paragraph 1 — point 7 — point b a (new)

Directive 2011/16/EU

Article 8b — paragraph 2

Present text	*Amendment*
	(ba) Paragraph 2 is replaced by the following:
2. Before 1 January ***2019***, the Commission shall submit a report that provides an overview and an assessment of the statistics and information received under paragraph 1 of this Article, on issues such as the administrative and other relevant costs and benefits of the automatic exchange of information, as well as practical aspects linked thereto. ***If appropriate,*** the Commission shall present a proposal to the Council regarding the categories and the conditions laid down in Article 8(1), including the condition that information concerning residents in other Member States has to be available, or the items referred to in Article 8(3a), ***or both***.	'2. Before 1 January ***2022***, the Commission shall submit a report that provides an overview and an assessment of the statistics and information received under paragraph 1 of this Article, on issues such as the ***effective use of the data received by Member States for tax or other purposes,*** administrative and other relevant costs and benefits of the automatic exchange of information, as well as practical aspects linked thereto. The Commission shall present a proposal to the Council regarding the categories and the conditions laid down in Article 8(1), including the condition that information concerning residents in other Member States has to be available ***or be made available***, and the items referred to in Article 8(3a), ***including beneficial ownership.***
When examining a proposal presented by the Commission, the Council shall assess further strengthening of the efficiency and functioning of the automatic exchange of information and raising the standard thereof, with the aim of providing that:	When examining a proposal presented by the Commission, the Council shall assess further strengthening of the efficiency and functioning of the automatic exchange of information and raising the standard thereof, with the aim of providing that:
(a) ***the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information regarding taxable periods as from 1 January 2019 concerning residents in that other Member State, on all categories of income and capital listed in Article 8(1), as they are to be understood under the national legislation of the Member State communicating the information; and***	(a) ***the lists of categories of income and capital laid down in Article 8(1) be made available by Member States, even if not currently available, and accordingly exchanged;***
(b) ***the lists of categories and items laid down in Articles 8(1) and 8(3a) be extended to include other categories and items, including royalties.***	(b) ***the categories of income laid down in Article 8(1) be expanded to non-financial assets such as real estate, art or jewellery and new forms to store wealth such as free ports and safe deposit boxes;***
	(ba) the lists of items laid down in Article 8(3a) be extended to include the ultimate beneficial ownership data and to tackle circumvention through second or multiple tax residencies;
	(bb) Member States be generally allowed to use the information received for other purposes than those referred to in Article 16(1);
	(bc) effective use of the data received be correctly evaluated.'

Wednesday 10 March 2021

Amendment 51

Proposal for a directive

Article 1 — paragraph 1 — point 8 — point a

Directive 2011/16/EU

Article 11 — paragraph 1

Text proposed by the Commission	*Amendment*
1. With a view to exchanging the information referred to in Article1(1), the competent authority of a Member State may request the competent authority of another Member State that officials authorised by the former and in accordance with the procedural arrangements laid down by the latter:	1. With a view to exchanging the information referred to in Article1(1), the competent authority of a Member State may request the competent authority of another Member State that officials authorised by the former and in accordance with the procedural arrangements laid down by the latter:
(a) be present in the offices where the administrative authorities of the requested Member State carry out their duties;	(a) be present in the offices where the administrative authorities of the requested Member State carry out their duties;
(b) be present during administrative enquiries carried out in the territory of the requested Member State;	(b) be present during administrative enquiries carried out in the territory of the requested Member State;
(c) participate in the administrative enquiries carried out by the requested Member State through the use of electronic means of communication, where appropriate.	(c) participate in the administrative enquiries carried out by the requested Member State through the use of electronic means of communication, where appropriate.
A competent authority shall respond to a request in accordance with the first subparagraph within 30 days, to confirm its agreement or communicate its reasoned refusal to the requesting authority.	A competent authority shall respond to a request in accordance with the first subparagraph within 30 days, to confirm its agreement or communicate its reasoned refusal to the requesting authority.
	In cases where a reasoned refusal is provided, the requesting authority may contact again the competent authority with additional elements, in order to obtain an authorisation for its official to carry out the tasks referred to in paragraph 1, point (a), (b) or (c). The competent authority shall respond to that second request within 30 days of its receipt.
Where the requested information is contained in documentation to which the officials of the requested authority have access, the officials of the requesting authority shall be given copies thereof.	Where the requested information is contained in documentation to which the officials of the requested authority have access, the officials of the requesting authority shall be given copies thereof.

Amendment 52

Proposal for a directive

Article 1 — paragraph 1 — point 10

Directive 2011/16/EU

Article 12a — paragraph 2

Text proposed by the Commission	*Amendment*
2. Where a competent authority of one Member ***State*** requests a competent authority of another Member State (or other Member States) to conduct a joint audit of one or more persons of common or complementary interest to all their respective Member States, the requested authorities shall respond to the request within 30 days from the receipt of the request.	2. Where competent authorities of one ***or more*** Member ***States*** request a competent authority of another Member State (or competent authorities of other Member States) to conduct a joint audit of one or more persons of common or complementary interest to all their respective Member States, the requested authorities shall respond to the request within 30 days from the receipt of the request.

Wednesday 10 March 2021

Amendment 53

Proposal for a directive

Article 1 — paragraph 1 — point 10

Directive 2011/16/EU

Article 12a — paragraph 3 — introductory part

Text proposed by the Commission	*Amendment*
3. A request for a joint audit by a competent authority of a Member State may be rejected ***on justified grounds and, in particular,*** for any of the following reasons:	3. A request for a joint audit by a competent authority of a Member State may be rejected for any of the following reasons:

Amendment 54

Proposal for a directive

Article 1 — paragraph 1 — point 10

Directive 2011/16/EU

Article 12a — paragraph 4 — subparagraph 2

Text proposed by the Commission	*Amendment*
Where a requested authority rejects the request, it shall inform the requesting person(s) of the grounds for doing so.	Where a requested authority rejects the request, it shall inform the requesting person(s) ***on which of the two grounds referred to in paragraph 3 the request was rejected.***

Amendment 55

Proposal for a directive

Article 1 — paragraph 1 — point 12 — point a

Directive 2011/16/EU

Article 16 — paragraph 1 — subparagraph 1

Text proposed by the Commission	*Amendment*
Information communicated between Member States in any form pursuant to this Directive shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it. Such information may be used for the assessment, administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2 as well as VAT and other indirect taxes..	Information communicated between Member States in any form pursuant to this Directive shall be covered by the obligation of official secrecy ***under the national law of the requested Member States and requesting Member State*** and enjoy the protection extended to similar information under the national law of the Member State which received it. Such information may be used for the assessment, administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2 as well as VAT***, information referred to in Article 8ac(2), second subparagraph,*** and other indirect taxes.

Wednesday 10 March 2021

Amendment 56

Proposal for a directive

Article 1 — paragraph 1 — point 12 — point b

Directive 2011/16/EU

Article 16 — paragraph 2

Text proposed by the Commission	*Amendment*
2. ***With the permission of the competent authority of the Member State communicating information pursuant to this Directive, and only in so far as this is allowed under the legislation of the Member State of the competent authority receiving the information,*** information and documents received pursuant to this Directive may be used for other purposes than those referred to in paragraph 1.	2. Information and documents received pursuant to this Directive ***by a competent authority of a Member State*** may be used for other purposes than those referred to in paragraph 1 ***only insofar as that is allowed under the laws of the Member State of the competent authority receiving the information.***
The competent authority of each Member State shall communicate to the competent authorities of all other Member States a list of purposes for which, in accordance with its domestic law, information and documents may be used other than those referred to in paragraph 1. The competent authority that receives information may use the received information and documents without the permission referred to in the first subparagraph for any of the purposes listed by the communicating Member State.	

Amendment 57

Proposal for a directive

Article 1 — paragraph 1 — point 12 — point b a (new)

Directive 2011/16/EU

Article 16 — paragraph 4

Text proposed by the Commission	*Amendment*
	(ba) Paragraph 4 is deleted.

Amendment 58

Proposal for a directive

Article 1 — paragraph 1 — point 13 a (new)

Directive 2011/16/EU

Article 17 — paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	(13a) In Article 17, the following paragraph is inserted:
	'4a. The possibility referred to in paragraph 4 of refusing the provision of information shall not apply if the requesting authority is able to demonstrate that the information will not be disclosed to the public and will only be used for the purpose of the assessment, management and control of the relevant tax affairs of the person or group of persons concerned by the request for information.'

Wednesday 10 March 2021

Amendment 59

Proposal for a directive

Article 1 — paragraph 1 — point 15

Directive 2011/16/EU

Article 21 — paragraph 7 — subparagraph 1

Text proposed by the Commission	*Amendment*
The Commission shall develop and provide technical and logistical support for a secure central interface on administrative cooperation in the field of taxation where Member States communicate with the use of standard forms pursuant to Article 20(1) and (3). The competent authorities of all Member States shall have access to that interface. For the purpose of collecting statistics, the Commission shall have access to information about the exchanges recorded to the interface and which can be extracted automatically. The access by the Commission shall be without prejudice to the obligation of Member States to provide statistics on exchanges of information in accordance with Article 23(4).	The Commission shall develop and provide ***all necessary*** technical and logistical support for a secure central interface on administrative cooperation in the field of taxation where Member States communicate with the use of standard forms pursuant to Article 20(1) and (3). The competent authorities of all Member States shall have access to that interface***. The Commission shall ensure that the central interface is secured with the highest level of cybersecurity and technically certified procedures to guarantee data protection***. For the purpose of collecting statistics, the Commission shall have access to information about the exchanges recorded to the interface and which can be extracted automatically. The access by the Commission shall be without prejudice to the obligation of Member States to provide statistics on exchanges of information in accordance with Article 23(4).

Amendment 60

Proposal for a directive

Article 1 — paragraph 1 — point 17

Directive 2011/16/EU

Article 23 — paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall examine and evaluate, in their jurisdiction, the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance ***and*** shall communicate annually the results of their evaluation to the Commission.	2. Member States shall examine and evaluate, in their jurisdiction, the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance ***and they shall examine and evaluate the compliance costs that can result from a possible over-reporting situation. Member States*** shall communicate annually the results of their evaluation to the ***European Parliament and the*** Commission. ***A summary of those results shall be made public, taking into account taxpayers' rights and confidentiality. The information shall not be disaggregated to such a level that it can be attributed to a single taxpayer.***

Wednesday 10 March 2021

Amendment 61

Proposal for a directive

Article 1 — paragraph 1 — point 17 a (new)

Directive 2011/16/EU

Article 23 — paragraph 3

Present text	*Amendment*
	(17a) In Article 23, paragraph 3 is replaced by the following:
3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Articles 8, 8a, 8aa and 8ab as well as the practical results achieved. The Commission shall, by means of implementing acts, adopt the form and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).	'3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of ***the exchange of information on request referred to in Articles 5, 6 and 7 and of the*** automatic exchange of information referred to in Articles 8, 8a, 8aa and 8ab as well as the practical results achieved, ***including the incremental tax revenues associated with administrative cooperation. The information communicated shall be disaggregated by the Commission, at minimum to a country-by-country level.*** The Commission shall, by means of implementing acts, adopt the form and the conditions of communication for that yearly assessment. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).'

Amendment 62

Proposal for a directive

Article 1 — paragraph 1 — point 17 b (new)

Directive 2011/16/EU

Article 23a — paragraph 1

Present text	*Amendment*
	(17b) In Article 23a, paragraph 1 is replaced by the following:
1. Information communicated to the Commission pursuant to this Directive shall be kept confidential ***by the Commission in accordance with the provisions applicable to Union authorities and may not be used for any purposes other than those required to determine whether and to what extent Member States comply with this Directive.***	'1. Information communicated to the Commission pursuant to this Directive shall be kept confidential, ***insofar as its non-disclosure does not harm public interest, the information can be attributed to a single taxpayer and its disclosure would infringe taxpayers' rights.'***

Wednesday 10 March 2021

Amendment 63

Proposal for a directive

Article 1 — paragraph 1 — point 18

Directive 2011/16/EU

Article 23a — paragraph 2 — subparagraph 1

Text proposed by the Commission	*Amendment*
Information communicated to the Commission by a Member State under Article 23, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. Such transmitted information shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it.	Information communicated to the Commission by a Member State under Article 23, as well as any report or document produced by the Commission using such ***attributable*** information, may be transmitted to other Member States. Such transmitted information shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it.

Amendment 64

Proposal for a directive

Article 1 — paragraph 1 — point 18

Directive 2011/16/EU

Article 23a — paragraph 2 — subparagraph 2

Text proposed by the Commission	*Amendment*
Reports and documents produced by the Commission, referred to in the first subparagraph, may be used by the Member States only for analytical purposes, ***and shall not be published or made available to any other person or body without the express agreement of the Commission***.	Reports and documents produced by the Commission, referred to in the first subparagraph, may be used by the Member States only for analytical purposes, ***and be accessible to all interested parties and subsequently be public, insofar as the information they contain is not attributable to a single taxpayer, and their disclosure complies with Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents***.

Amendment 65

Proposal for a directive

Article 1 — paragraph 1 — point 18

Directive 2011/16/EU

Article 23a — paragraph 2 — subparagraph 3

Text proposed by the Commission	*Amendment*
Notwithstanding the first and second subparagraphs, the Commission ***may*** publish annually anonymised summaries of the statistical data that Member States communicate to it in accordance with Article 23(4).	The Commission ***shall*** publish annually anonymised summaries of the statistical data that Member States communicate to it in accordance with Article 23(4).

Wednesday 10 March 2021

Amendment 66

Proposal for a directive

Article 1 — paragraph 1 — point 19 — point b

Directive 2011/16/EU

Article 25 — paragraph 5 — subparagraph 1

Text proposed by the Commission	*Amendment*
Member States shall ensure that, in the event of a personal data breach in the meaning of point 12 of Article 4 of Regulation (EU) 2016/679, the competent authorities may ask the Commission, as processor, to suspend, as a mitigating measure, the exchanges of information under this Directive with the Member State where the breach occurred.	Member States shall ensure that, in the event of a personal data breach in the meaning of point 12 of Article 4 of Regulation (EU) 2016/679 ***or in the event of a breach of the principles of the rule of law as referred to in Article 4 of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council (*),*** the competent authorities may ask the Commission, as processor, to suspend, as a mitigating measure, the exchanges of information under this Directive with the Member State where the breach occurred.

(*) Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433 I, 22.12.2020, p. 1).

Amendment 67

Proposal for a directive

Article 1 — paragraph 1 — point 19 — point b

Directive 2011/16/EU

Article 25 — paragraph 5 — subparagraph 2

Text proposed by the Commission	*Amendment*
The suspension shall last until the competent authorities ask the Commission to enable again the exchanges of information under this Directive with the Member State where the breach occurred.	The suspension shall last until the competent authorities ask the Commission to enable again the exchanges of information under this Directive with the Member State where the breach occurred. ***The Commission shall enable the exchanges of information only when there is technical evidence that the data flow is secured***.

Amendment 68

Proposal for a directive

Article 1 — paragraph 1 — point 20

Directive 2011/16/EU

Article 25a — paragraph 1

Text proposed by the Commission	*Amendment*
Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa, 8ab and 8ac, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.	Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa, 8ab and 8ac, and shall take all measures necessary to ensure that they are implemented***, in accordance with Annex V***. The penalties provided for shall be effective, proportionate and dissuasive.

Wednesday 10 March 2021

Amendment 69

Proposal for a directive

Article 1 — paragraph 1 — point 20 a (new)

Directive 2011/16/EU

Article 25b (new)

Text proposed by the Commission	*Amendment*
	(20a) The following Article is added:
	'Article 25b
	Review
	By… [two years after the date of entry into force of this amending Directive], the Commission shall present a report on the implementation and efficiency of the provisions introduced by Council Directive (EU) …/… (*) (†) and make specific proposals, including legislative proposals, for the improvement of this Directive. That report shall be made public.
	When examining a proposal presented by the Commission, the Council shall assess further strengthening of the obligation to report by the Reporting Platform Operators.
	(*) Council Directive (EU) …/… of … amending Directive 2011/16/EU on administrative cooperation in the field of taxation (OJ…).
	(†) OJ: Please insert the number of this amending directive in the text, and complete the footnote with the number, the date and the OJ reference.'

Amendment 70

Proposal for a directive

Annex I

Directive 2011/16/EU

ANNEX V — paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	This Annex also contains several possible penalties, in accordance with Article 25a, which can be applied by Member States.

Amendment 71

Proposal for a directive

Annex I

Directive 2011/16/EU

ANNEX V — Section I — point A — paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. 'Excluded Reporting Platform Operator' means a Reporting Platform Operator whose revenues, generated in the Union during the previous calendar year, did not exceed EUR 100 000.

Amendment 72

Proposal for a directive

Annex I

Directive 2011/16/EU

ANNEX V — Section I — point A — paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. 'Excluded Relevant Activity' means any non-remunerated and non-monetary exchange of goods and services.

Amendment 73

Proposal for a directive

Annex I

Directive 2011/16/EU

ANNEX V — Section III — point B — paragraph 2 — point b

Text proposed by the Commission	*Amendment*
(b) the Financial Account Identifier, ***insofar as it is available to*** the Reporting Platform Operator and the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;	(b) the Financial Account Identifier, ***as collected by*** the Reporting Platform Operator and ***insofar as*** the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;

Wednesday 10 March 2021

Amendment 74

Proposal for a directive

Annex I

Directive 2011/16/EU

ANNEX V — Section III — point B — paragraph 3 — point b

Text proposed by the Commission	*Amendment*
(b) the Financial Account Identifier, ***insofar as it is available to*** the Reporting Platform Operator and the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;	(b) the Financial Account Identifier, ***as collected by*** the Reporting Platform Operator and ***insofar as*** the competent authority of the Member State where the Reportable Seller is resident has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;

Amendment 75

Proposal for a directive

Annex I

Directive 2011/16/EU

ANNEX V — Section IV — point C — paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	By… [two years after the date of entry into force of this amending Directive], the Commission shall assess the efficiency of the administrative procedures and the quality of implementation of the due diligence procedures and reporting requirements. The assessment may be accompanied by legislative proposals if improvement is needed.

Amendment 76

Proposal for a directive

Annex I

Directive 2011/16/EU

ANNEX V — Section IV — point F a (new)

Text proposed by the Commission	*Amendment*
	Fa. Penalties for infringements
	Member States shall lay down the rules on penalties applicable to infringements of reporting obligations by Reporting Platform Operators. The penalties provided for shall be effective, proportionate and dissuasive. Member States are invited to ensure a common set of sanctions to ensure similar penalties in the Union and avoid registration shopping based on the severity of penalties applied.

Text proposed by the Commission	*Amendment*
	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.