



International Tax

European Union Tax Alert

7 October 2015

ECOFIN agrees on directive for exchange of information on rulings

Contacts

Geert Lowagie
glowagie@deloitte.com

On 6 October 2015, ECOFIN, the Council of Finance Ministers, reached agreement on a proposed directive that would require the automatic exchange of information within the European Union (EU) on certain tax rulings. The directive, which is aimed at improving transparency regarding tax rulings, is in line with developments in the OECD and its work on base erosion and profit shifting (BEPS) and would amend the mutual assistance directive.

Finalization of the directive is expected by the end of 2015, with transposition into the national law of the EU member states by 1 January 2017.

The proposed directive would require EU member states to automatically exchange information on advance cross-border tax rulings and on advance pricing arrangements (APAs). Member states receiving the information would be able to request additional details where appropriate.

The European Commission would set up a secure central directory where exchanged information would be stored; the directory would be accessible to all member states and to the Commission to the extent necessary for monitoring correct implementation of the directive.

As noted above, the directive would apply as from 1 January 2017, but would be partly retroactive, following the example set by the G20/OECD, in that all valid rulings from 2012 to 2017 would be exchanged between member states (although existing obligations to exchange information between member states will remain in place). For rulings issued before 1 January 2017, the following rules would apply:

- Information on advance cross-border rulings/APAs issued, amended or renewed between 1 January 2012 and 31 December 2013 would have to be exchanged if the rulings/APAs were still valid on 1 January 2014.
- Information on advance cross-border rulings/APAs issued, amended or renewed between 1 January 2014 and 31 December 2016 would have to be exchanged, even if they are no longer valid when the directive comes into effect.
- Member states would be able to (but would not be obligated to) exclude from an information exchange advance cross-border tax rulings/APAs issued to small and medium-sized companies (i.e. companies with an

annual net turnover of less than EUR 40 million at a group level) if such rulings/APAs were issued, amended or renewed before 1 April 2016. However, this exemption would not apply to companies engaged mainly in financial or investment activities.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte’s more than 220,000 professionals are committed to making an impact that matters.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2015. For information, contact Deloitte Touche Tohmatsu Limited.