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TAX

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Council of the EU approves amended Savings Directive

Council of the EU – Taxation of savings income – Savings Directive

Following political agreement reached between EU heads of state, the Council of the European Union formally adopted on March 24, 2014 a directive amending the EU Savings Directive (2003/48/EC). The amended Directive will broaden the scope of the current rules in order to close certain loopholes. The new rules will likely be applicable as from 2017.

Background

The Savings Directive has been in force since July 1, 2005 and is intended to prevent evasion of tax on savings income within the EU. The Directive requires exchange of information between EU tax authorities regarding interest payments made from one Member State to a resident of another Member State. For these purposes the Directive also lays down reporting obligations on Member State financial institutions. For a transitional period, Austria and Luxembourg are permitted to operate a withholding tax system. Luxembourg has indicated that it will move to information exchange from 2015. Similar arrangements were entered into with Switzerland, Liechtenstein, Monaco, Andorra and San Marino as well as certain dependent or associated territories of EU Member States, such as the Cayman Islands, Netherlands Antilles and the Channel Islands.

Proposals to amend the existing Directive were put forward by the EU Commission in 2008 and are primarily designed to prevent loopholes being exploited. Adopting the revised Directive was a key element of the Commission's action plan to fight tax fraud and evasion (see Euro Tax Flash 209). However, progress on the adoption of the new Directive had been blocked largely due to concerns from Austria and Luxembourg that equivalent measures should be introduced in Switzerland and the other four jurisdictions mentioned above. The EU Commission was given a mandate in May 2013 to negotiate arrangements for such equivalent measures. It appears that the Commission was able to provide sufficient comfort as regards the progress made in these negotiations for all Member States to support the changes.

Enlarged scope

The primary aim of the changes is to include all types of savings income and products that generate interest or equivalent income. It would include life insurance contracts as well as a broader coverage of investment funds. It also applies a "look through" approach to certain EU as well as non-EU interposed entities or legal arrangements. The Directive should be seen in conjunction with the proposals to extend the scope of the current EU Directive on Mutual Administrative Cooperation (2011/16/EU – see Euro Tax Flash 215). EU Taxation Commissioner Semeta stated in a speech announcing its adoption, that the revised Directive would be part of the EU's legislative structure implementing the new global standard on automatic information exchange put forward by the OECD, with which the new Directive is "fully consistent".

Timing

The Member States will have to have legislation in place to implement the new rules by January 1, 2016 and it is likely that these would be applied as from January 1, 2017. Semeta also indicated that he expects to conclude negotiations with Switzerland before the end of the year.

EU Tax Centre Comment

The adoption of the revised Savings Directive should be seen in the context of the global pressure to adopt measures to prevent tax evasion, in particular the US FATCA initiative and the related OECD common reporting standard.

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax advisor.

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