Exchange of information on cross-border arrangements (DAC6)

Amendments to the Tax Information Exchange Act regarding exchange of information on cross-border arrangements have been published in the **Riigi Teataja on 21 December 2019**.

The amendments were adopted in order to incorporate amendments resulting from **Council Directive (EU) 2018/822** as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements.

A new **chapter 2^2 titled "Automatic exchange of information on cross-border arrangements in European Union"** containing 12 paragraphs was added to the Tax Information Exchange Act:

§ 20^8 "Cross-border arrangement"
§ 20^9 "Reportable arrangement"
§ 20^{10} "Information provider"
§ 20^{11} "Taxable person concerned"
§ 20^{12} "Related persons"
§ 20^{13} "Obligations of information provider"
§ 20^{14} "Transfer of obligations of information provider"
§ 20^{15} "Reporting country of information provider"
§ 20^{16} "Multiplicity of information providers"
§ 20^{17} "Reporting obligation of taxable person concerned"
§ 20^{18} "Reporting country of taxable person"
§ 20^{19} "Multiplicity of taxable persons concerned"

Changes in international tax information exchange

The fight against tax avoidance and tax evasion has been identified as a political priority in the European Union and in the Organisation for Economic Co-operation and Development (OECD). So far, seven administrative cooperation directives have been adopted in order to reduce aggressive tax planning and increase the transparency of national tax systems.

In the field of direct taxation, cooperation on exchange of information has been enhanced in recent years with the following measures:

1. automatic exchange of information on different types of revenue in the European Union implemented since 2015 **[1]**;
2. exchange of financial account information in tax matters implemented since 2016 **[2]**;
3. exchange of information on binding advance tax rulings implemented since 2017 **[3]**;

4. exchange of information on country-by-country reporting by MNE groups, implemented since 2017 **[4]**;
5. granting tax authorities domestic access to the data on determining beneficial owners, implemented since 2018 **[5]**;
6. exchange of information on tax-related arrangements, implemented since 2020 **[6]**;
7. exchange of platform information, implemented since 2023 **[7]**.

The European Commission has explained **[8]** that exchanging information on tax arrangements is important because it is increasingly difficult for Member States to protect their national tax bases as tax planning structures become increasingly complex and take advantage of the increased mobility of capital and persons in the internal market. In general, these harmful structures consist of arrangements involving different jurisdictions and move taxable income to a more favourable tax environment or reduce the overall tax burden. Aggressive tax planning makes it possible to exploit mismatches between corporate tax systems, to benefit from preferential tax regimes or to interpret laws in a manner that was not provided for by the legislator. Aggressive tax planning often results in significant losses in Member States' tax revenues, which prevents them from applying tax policies fostering economic growth. The European Parliament has called for stronger action against intermediaries that contribute to the spread of tax evasion schemes **[9]**.

Arrangements that create the possibility to avoid the exchange of information on financial accounts and hide beneficial owners as defined in the Money Laundering and Terrorist Financing Prevention Act are equally harmful. The European Commission assessed that the most cost-effective form of automatic exchange of information is, where information is collected in a single central register maintained by the European Commission, allowing for substantial automation of work processes and reducing costly manual work in the processing of information. The European Commission's central register is also used to compile information on tax authorities' binding tax rulings and advance pricing agreements.

Automatic exchange of information on cross-border arrangements

The automatic exchange of information on cross-border arrangements imposes an obligation on tax advisors and taxpayers to inform tax authorities about cross-border tax planning arrangements. The automatic exchange of information on cross-border arrangements has been imposed in Estonia **on direct taxes**, meaning that there is no obligation to notify arrangements for VAT, customs duties, excise duties, social security contributions, fees and (service) charges.

The list of the composition of the information to be submitted on an arrangement subject to reporting can be found in **Annex 16 to Regulation No 16 of the Minister of Finance** (PDF, in Estonian).

[1] Main text of the Directive on administrative cooperation

[2] 2014 amendment to the Directive on administrative cooperation

[3] 2015 amendment to the Directive on administrative cooperation

[4] **First 2016 amendment to the Directive on administrative cooperation**

[5] **Second 2016 amendment to the Directive on administrative cooperation**

[6] **2018 amendment to the Directive on administrative cooperation**

[7] **2021 amendment to the Directive on administrative cooperation**

[8] **The Commission's explanations can be found in the part of reasons for and objectives of the proposal for a directive**

[9] **More information about the European Parliament's Committee on tax rulings.** In light of the "Panama papers" and other scandals, the European Parliament has commissioned various studies to open up the nature of the problem and offer solutions, see more **https://www.europarl.europa.eu/RegData/etudes/STUD/2017/602030/IPOL_STU(2017)602030_EN.pdf** (PDF) and **https://www.europarl.europa.eu/RegData/etudes/STUD/2017/602029/IPOL_STU(2017)602029_EN.pdf** (PDF).

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