



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 11 December 2012 (11.12)  
(OR. en)**

**17637/12**

**FISC 196  
ECOFIN 1062**

**COVER NOTE**

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from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 6 December 2012

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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No Cion doc.: COM(2012) 722 final

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Subject: Communication from the Commission to the European Parliament and the  
Council  
An Action Plan to strenghten the fight against tax fraud and tax evasion

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Delegations will find attached Commission document COM(2012) 722 final.

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Encl.: COM(2012) 722 final



Brussels, 6.12.2012  
COM(2012) 722 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**An Action Plan to strengthen the fight against tax fraud and tax evasion**

{SWD(2012) 403 final}  
{SWD(2012) 404 final}

# COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

## An Action Plan to strengthen the fight against tax fraud and tax evasion

### 1. INTRODUCTION

On 2<sup>nd</sup> March 2012, the European Council called on the Council and the Commission to rapidly develop concrete ways to improve the fight against tax fraud and tax evasion, including in relation to third countries and to report by June 2012. In April the European Parliament adopted a resolution echoing the urgent need for action in this area.

As a first response, on 27 June 2012 the Commission adopted a Communication<sup>1</sup> (the "June Communication") which outlined how tax compliance can be improved and fraud and evasion reduced, through a better use of existing instruments and the adoption of pending Commission proposals. It also identified areas where further legislative action or coordination would benefit the EU and Member States and demonstrated the added value of working together against the increasing challenge posed by tax fraud and evasion.

The June Communication announced the preparation, before the end of 2012, of an action plan setting out concrete steps to enhance administrative cooperation and to support the development of the existing good governance policy, the wider issues of interaction with tax havens and of tackling aggressive tax planning and other aspects, including tax-related crimes.

The Commission is presenting in this action plan, the initiatives the Commission has already taken, new initiatives that can be progressed this year, initiatives planned for next year and those requiring a longer timeframe. In sequencing these initiatives, the Commission was mindful of the need not to overload Member States and to take account of their capacity to take the necessary actions.

In essence, this action plan contains practical actions which can deliver concrete results to all Member States and lend support in particular to those Member States to whom Country Specific Recommendations<sup>2</sup> on the need to strengthen tax collection have been addressed, in the context of the 2012 European Semester exercise.

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<sup>1</sup> COM (2012) 351 final of 27.06.2012 Communication from the Commission to the European Parliament and the Council on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries.

<sup>2</sup> Country-specific recommendations have been addressed to Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Italy, Lithuania, Malta, Poland and Slovakia. Note that Member States currently benefiting from financial assistance under the European Financial Stability Facility (EFSF), the European Financial Stabilisation Mechanism (EFSM) or under the provisions of Article 143 of the Treaty are recommended to implement the measures laid down in their respective Implementing Decisions and further specified in their Memorandums of Understanding and possible subsequent supplements. This concerns Greece, Ireland, Portugal and Romania.

Member States and stakeholders were consulted on the contents of the action plan and priorities to be given to each item. The plan takes into account their views. The strong message from Member States was that top priority should be given to actions already under development and to the full implementation and application of the newly adopted legislation on administrative cooperation and the fight against tax fraud. Member States also emphasised the need to adopt quickly the pending proposals in the Council and to pay particular attention to the fight against VAT fraud and evasion<sup>3 4</sup>.

Future work on these actions will be guided by the need to reduce costs and complexity of tax systems for both the taxpayers and the tax administrations. For taxpayers, decreasing costs and complexity would encourage better tax compliance. For tax administrations, the development and full use of automated tools and risk management techniques would release human and budgetary resources to concentrate on achieving targeted objectives.

The Commission will also continue to promote the most effective use by all Member States of practical IT tools for all taxes. It will also promote a more joined-up approach between direct and indirect taxes and between taxation and customs by making appropriate use of the FISCALIS and CUSTOMS programmes to enhance communication and promote a more systematic sharing of best practices and tools, where appropriate. This can help to improve the efficiency of audits and controls and reduce the burden on taxpayers.

All the actions proposed to be taken up by the Commission in this document are consistent and compatible with the current Multiannual Financial Framework 2007-2013 and the new Multiannual Financial Framework 2014-2020.

## **2. BETTER USE OF EXISTING INSTRUMENTS AND COMMISSION INITIATIVES TO BE PROGRESSED**

Tax fraud and tax evasion have an important cross-border dimension. Member States can only address this problem effectively if they work together. Improving administrative cooperation between Member States' tax administrations is therefore a key objective of the Commission's strategy in this area. A number of important steps have already been taken.

### ***1. New framework for administrative cooperation***

On proposals by the Commission in the past two years, the Council has adopted a new framework for administrative cooperation<sup>5</sup>. This set of new legislative

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<sup>3</sup> Council conclusions of December 2011 (doc. 9586/12 - FISC 63 OC 213)

<sup>4</sup> ECOFIN Report to the European Council on Tax issues of 4.12.2012 (doc. 16327/12 – FISC 166 – ECOFIN 949) and Council Conclusions on the Commission's Communication of 13.11.2012 (doc. 16051/12 – PRESSE 465 – PR CO 60)

<sup>5</sup> Council Directive 2010/24/EU of 16 March concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84 of 31.3.2010, P. 1); Council Regulation N° 904/2010/EU of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268 of 12.10.2010, P. 1); 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 of

instruments paves the way for the development of new tools and instruments by the Commission and Member States. The June Communication highlights that their effective and comprehensive use by Member States is still to be attained. Member States must ensure a full and effective implementation and application of these instruments in particular by engaging in enhanced exchange of information.

## **2. *Closing Savings taxation loopholes***

Adopting the amendments proposed by the Commission in regard to the Savings Taxation Directive<sup>6</sup> will permit the closing of loopholes in the Directive and thus improve the effectiveness of this instrument. This will help Member States to better ensure effective taxation of cross-border savings income. It is now up to the Council to adopt this proposal and give a negotiating mandate to the Commission to seek corresponding changes to the existing savings taxation agreements with third countries. The vast majority of Member States have identified this issue as a high priority. The Commission therefore urges the Council to adopt these proposals without delay.

## **3. *Draft anti-fraud and tax cooperation agreement***

Similarly, the Commission invites the Council to sign and conclude the draft anti-fraud and tax cooperation agreement between the EU and its Member States and Liechtenstein which it presented to the Council in 2009<sup>7</sup> and to adopt the draft mandate for opening similar negotiations with four other neighbouring third countries. This will allow the Commission to negotiate agreements that ensure that the same instruments to fight fraud and high standards of transparency and exchange of information are available to all Member States.

## **4. *Quick Reaction Mechanism against VAT fraud***

The Commission on 31 July 2012 presented a proposal for a Quick Reaction Mechanism against VAT fraud<sup>8</sup>. If adopted, this proposal would enable the Commission to very quickly authorise a Member State to adopt derogating measures of a temporary nature in order to tackle cases of sudden and massive fraud with a major financial impact. The Council is urged to swiftly adopt this proposal which it has identified as a high priority.

## **5. *Optional application of the VAT reverse charge mechanism***

The Commission presented in 2009 a proposal regarding an optional application of the VAT reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud<sup>9</sup>. Only the part of that proposal relating to greenhouse

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11.3.2011, P.1); Council Regulation N° 389/2012/EU of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) N° 2073/2004 (OJ L 121 of 8.5.2012, P. 1)

<sup>6</sup> COM (2008) 727 final of 13.11.2008

<sup>7</sup> COM (2009) 644 final of 23.11.2009 and COM (2009) 648 final of 23.11.2009

<sup>8</sup> COM (2012) 428 final of 31.07.2012

<sup>9</sup> COM (2009) 511 final of 29.09.2009

gas emission allowances was adopted in March 2010<sup>10</sup>. The adoption of the remaining part of that proposal would allow all Member States to apply the reverse charge mechanism under the same conditions in those sectors where it represents the most efficient tool against 'carousel fraud', instead of adopting individual derogations to the VAT Directive which could have an adverse impact on the fight against fraud in other Member States.

### **6. *EU VAT forum***

Both business and tax authorities acknowledge that the current VAT system is burdensome to manage and vulnerable to fraud. With a view to improving the governance of VAT at EU level, the Commission has decided to create an EU VAT forum<sup>11</sup>. In this dialogue platform representatives of large, medium and small businesses and tax authorities can exchange views on practical cross border aspects of VAT administration, as well as identify and discuss best practices that could contribute to streamlining the management of the VAT system, aiming at reducing compliance costs, while at the same time securing VAT revenue. The Commission invites Member States to participate as widely as possible, for the EU VAT forum to attain its objectives.

## **3. NEW COMMISSION INITIATIVES**

Together with this Action plan, the Commission is presenting a series of new initiatives that respond to some of the needs identified in the June Communication. These initiatives constitute an immediate response to the identified needs to ensure a coherent policy vis-à-vis third countries, to enhance exchange of information and to tackle certain fraud trends.

### **7. *Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters***

The Commission's analysis of the current situation is that Member States recognise the potential and actual damage caused by jurisdictions not complying with minimum standards of good governance in tax matters, among which jurisdictions commonly considered as tax havens.

All Member States have responded in a different way to this situation. Taking into account the freedoms awarded to them when operating in the internal market, businesses may structure arrangements with such jurisdictions via the Member State with the weakest response. As a result, the overall protection of Member State's tax revenues tends to be only as effective as the weakest response of any one Member State. This does not only erode Member States' tax bases but also endangers fair competitive conditions for business and, ultimately, distorts the operation of the internal market.

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<sup>10</sup> Council Directive 2010/23/EU of 16.03.2010 amending Directive 2006/112/EC on the common system of value added tax, as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain services susceptible to fraud ( OJ L 72 of 20.03.2010, P.1)

<sup>11</sup> Commission Decision (2012/C198/05) of 3 July 2012 on setting up the EU VAT forum

With a view to tackling this problem the Commission recommends the adoption by Member States of a set of criteria to identify third countries not meeting minimum standards of good governance in tax matters and a ‘toolbox’ of measures in regard to third countries according to whether or not they comply with those standards, or are committed to comply with them. Those measures comprise the possible blacklisting of non-compliant jurisdictions and the renegotiation, suspension or conclusion of Double Tax Conventions (DTCs). To avoid promoting business with backlisted third countries, the Commission invites Member States to take additional complementary actions but in full respect of EU law.

Furthermore, Member States should consider ad hoc detachments of experts to assist tax administrations in third countries that commit to complying with minimum standards but are in need of technical assistance.

This Recommendation is an important practical first step to align the attitudes taken by Member States in regard to jurisdictions not applying minimum standards in the area concerned. To assess the need for possible further initiatives, the Commission will re-evaluate Member States' approach and actions in this area within three years after the adoption of the Recommendation.

#### **8. *Recommendation on aggressive tax planning***

The Commission considers that there is a need to ensure that the burden of taxation is shared fairly in line with the choices made by individual governments. Currently, some taxpayers may use complex, sometimes artificial, arrangements which have the effect of relocating their tax base to other jurisdictions within or outside the Union. In doing this, taxpayers take advantage of mismatches in national laws to ensure that certain items of income remain untaxed anywhere or to exploit differences in tax rates. By paying taxes businesses can have an important positive impact on the rest of society. Aggressive tax planning could thus be considered contrary to the principles of Corporate Social Responsibility<sup>12</sup>. Therefore, concrete steps are needed to address the problem.

Concrete action by all Member States intended to remedy such problems would also improve the operation of the internal market. In the light of this, the Commission recommends that Member States take common effective action in this field.

Specifically, Member States are encouraged to include a clause in Double Tax Conventions (DTCs) concluded with other EU Member States and with third countries to resolve a specifically identified type of double non-taxation. The Commission also recommends the use of a common general anti-abuse rule. This would help to ensure coherence and effectiveness in an area where Member State practice varies considerably.

The EU tax Directives (Directives on Interest and Royalties, Mergers and Parent-Subsidiary) already allow Member States to apply anti-abuse safeguards. While respecting the EU law, Member States can use these possibilities to avoid abusive tax planning.

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<sup>12</sup> Communication on a renewed EU strategy 2011-14 for Corporate Social Responsibility – COM (2011) 681 final of 25.10.2011

Furthermore, the Commission is willing to contribute to work in international tax fora such as the OECD to address the complexities of taxing electronic commerce by developing appropriate international standards.

### **9. *Creation of a Platform for Tax Good Governance***

The Commission plans to establish a Platform for Tax Good Governance composed of experts from Member States and stakeholders representatives to provide assistance in preparing its report on the application of the two Recommendations, and in its on-going work on aggressive tax planning and good governance in tax matters.

### **10. *Improvements in the area of harmful business taxation and related areas***

In line with what is set out above and as indicated already in the Annual Growth Survey 2012<sup>13</sup>, the Commission further points out the urgent need for a new impetus to be given to the work that is currently discussed in the context of the Code of Conduct for business taxation<sup>14</sup> (Code).

Over the past years, making progress and achieving tangible results in the Code of Conduct Group charged with the assessment of tax measures that may fall within the scope of the Code<sup>15</sup> has become increasingly difficult. This relates in part to the fact that more and more complex issues are being addressed but also to a need to refine and sharpen the expected results, the timetable for such results and the means of monitoring their implementation.

The Commission therefore calls on Member States to consider actions to improve the effectiveness in achieving the Code's original goals, for example by more rapidly taking topics to Council level when political decisions are urgently needed. The Code of Conduct Group currently also discusses the issue of mismatches where solutions are rapidly needed. If such solutions to remove mismatches are not agreed and implemented in line with clear deadlines, the Commission stands ready where appropriate to make proposals for legislative action instead.

In addition, in cases where existing Directives are found to provide opportunities for aggressive tax planning or prevent appropriate solutions by allowing double non-taxation, the Commission will act<sup>16</sup>. Work should also intensify on special tax regimes for expatriates and for wealthy individuals, which are harmful for the operation of the internal market and reduce overall tax revenues.

For its part, the Commission will continue to assist Member States in ensuring the effective promotion of the Code of conduct for business taxation in selected third countries and to promote fair tax competition globally by negotiating good governance provisions in relevant agreements with third countries and by assisting

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<sup>13</sup> Annex to the Annual Growth Survey 2012 "Growth-friendly tax policies in member states and better tax coordination in the EU", COM (2011) 815 final, VOL. 5/5 – Annex IV, par. 3.1

<sup>14</sup> OJ C 2, 6.1.1998, p. 2.

<sup>15</sup> OJ C 99, 1.4.1999, p. 1.

<sup>16</sup> In this context, reference is made to point 4.1.1.



developing countries in line with the Commission's standing policy on tax and development<sup>17</sup>.

### ***11. "TIN on EUROPA" portal***

The Commission also presents today a new practical instrument to improve administrative cooperation in the area of direct taxation.

Proper identification of taxpayers is essential to effective exchange of information between MS' tax administrations. Today the Commission officially launches the new application "TIN on EUROPA". This application provides samples of official identity documents containing national TINs (tax identification numbers). It thus allows any third party, and in particular financial institutions, to quickly, easily and correctly identify and record TINs in cross-border relations. In addition, an on-line checking system similar to VIES (VAT information exchange system) makes it possible to check whether the structure or the algorithm of a given TIN is correct. This new application could be a first step towards a more consistent approach to TINs at EU level (see chapter 4.2.1 below) and will contribute to a more effective automatic exchange of information.

### ***12. Standard forms for exchange of information in the field of taxation***

Directive 2011/16/EU adopted on 15 February 2011 provides for the adoption of standard forms for exchange of information on request, spontaneous exchange of information, notification and feedback. Today, the Commission has adopted an implementing regulation providing for such standard forms that will enhance the effectiveness and efficiency of exchange of information. The Commission has also developed an IT application for these standard forms in all EU languages that has already been put at the disposal of the Member States and that will be deployed as of 1 January 2013.

### ***13. A Euro denaturant for completely and partly denatured alcohol***

The modifications that will be adopted in December in the area of denaturants<sup>18</sup> encompass a common EU formulation for the complete denaturing of alcohol (CDA). The main objective is to reduce opportunities for fraud. It is also intended to simplify and harmonise administrative burdens for licit movements, reduce manufacturing costs and improve market access for producers of denatured alcohol (EU and global). It will be explored whether the same approach, with similar results, could be envisaged in regard to partly denatured alcohol (PDA).

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<sup>17</sup> COM (2010) 163 final of 21.04.2010

<sup>18</sup> Commission Regulation (EC) No 3199/93 of 22 November 1993 on the mutual recognition of procedures for the complete denaturing of alcohol for the purposes of exemption from excise duty (OJ L 288 of 23.11.1993, P. 12)

## 4. FUTURE INITIATIVES AND ACTIONS TO BE DEVELOPED

### 4.1. Actions to be undertaken in the short term (in 2013)

#### 4.1.1. Tackle mismatches and strengthen anti abuse provisions

##### **14. A revision of the parent subsidiary directive (2011/96/EU)<sup>19</sup>**

The area of mismatches, which deals with issues such as hybrid loans and hybrid entities, and differences in the qualification of such structures between jurisdictions, is an area of particular importance. Detailed discussions with Member States have shown that in a specific case an agreed solution cannot be achieved without a legislative amendment of the Parent-Subsidiary Directive. The objective will be to ensure that the application of the directive does not inadvertently prevent effective action against double non-taxation in the area of hybrid loan structures.

##### **15. A review of anti-abuse provision in EU legislation**

The Commission will also review the anti-abuse provisions of the Directives on Interest and Royalties, Mergers and Parent-Subsidiary, with a view to implement the principles underlying its Recommendation on aggressive tax planning.

#### 4.1.2. Promote EU standards, instruments and tools

##### **16. Promote the standard of automatic exchange of information in international fora and the EU IT tools**

The Commission will continue to strongly promote the automatic exchange of information as the future European and international standard of transparency and exchange of information in tax matters.

It is also essential that the EU IT tools developed by the Commission with the Member States are promoted in international fora<sup>20</sup> and in particular in the OECD to ensure widespread application of such tools and to avoid duplication. Member States should be able to use a single set of tools and instruments both within the EU and in their relations with third countries.

To this end, the Commission is working closely with the OECD on the on-going development of IT formats to be used for the automatic exchange of information under Directive 2011/16/EU on administrative cooperation in the field of taxation<sup>21</sup>. The objective is to take into account, from the beginning, the suggestions of non EU countries with a view to having the IT formats fully endorsed and applied outside the EU.

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<sup>19</sup> Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, OJ L 345, 29.12.2011, p. 8

<sup>20</sup> The EU participates actively in other international forums such as the Organisation for Economic and Co-operation Development (OECD), the International Organisation for Tax Administration (IOTA), the Inter American Centre of Tax Administrations (CIAT), the International Tax Dialogue (ITD), the International Tax Compact (ITC), and the African Tax Administration Forum (ATAF)

<sup>21</sup> 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).

Moreover, the Commission will ask the OECD to endorse its recently developed e-Forms for exchange of information on request, spontaneous exchange of information and feedback in the field of direct taxation, and will continue its cooperation with the OECD with regard to the e-Forms developed in the context of the recovery of claims.

#### *4.1.3. Enhance tax compliance*

##### ***17. A European taxpayer's code***

In order to improve tax compliance, the Commission will compile good administrative practices in Member States to develop a taxpayers' code setting out best practices for enhancing cooperation, trust and confidence between tax administrations and taxpayers, for ensuring greater transparency on the rights and obligations of taxpayers and encouraging a service-oriented approach.

The Commission will launch a public consultation on this at the beginning of 2013. By improving relations between taxpayers and tax administrations, enhancing transparency of tax rules, reducing the risk of mistakes with potentially severe consequences for taxpayers and encouraging tax compliance, encouraging Member States' administrations to apply a taxpayers' code will help to contribute to more effective tax collection.

#### *4.1.4. Enhance tax governance*

##### ***18. Reinforced cooperation with other law enforcement bodies***

Stronger cooperation, making full use of EU agencies' support, should also be promoted with other law enforcement bodies, in particular the authorities responsible for anti-money laundering, justice and social security. Inter-agency cooperation is essential to ensure an efficient fight against tax fraud, tax evasion and tax related crimes. Europol can play an important role in enhancing information exchange by contributing to the identification and dismantling of criminal networks/groups.

In the context of the preparation of its legislative proposal for a review of the Third Anti-Money Laundering Directive (AMLD), to be presented shortly, the Commission is considering to explicitly mention tax crimes as predicate offences to money laundering, in line with the 2012 recommendations of the Financial Action Task Force-FATF. This will facilitate the cooperation between tax authorities and judicial and financial supervisory authorities in order to tackle serious infringements of tax law. The enhancement of the AML customer due diligence procedures as well as increased transparency of beneficial ownership information collected for AML purposes within the framework of the review of the AMLD could also facilitate the use of relevant data for taxation purposes, e.g. to improve the effectiveness of the treatment of offshore investment structures under the EU Savings Taxation Directive. In addition, co-operation could be further facilitated by an EU-wide harmonisation of the money laundering offence, its definition and related sanctions. In this regard, the Commission plans to propose, beyond the review of the Third AMLD, a specific Directive on combating money laundering in 2013.

#### 4.1.5. *Enhance administrative cooperation*

##### **19. *Promote the use of simultaneous controls and the presence of foreign officials for audits***

In the short term, to facilitate tax audits and pave the way for possible future joint audits, it is essential that Member States make the widest possible use of the existing legal provisions to organise simultaneous controls and facilitate the presence of foreign officials in the offices of tax administrations and during administrative enquiries. The analysis carried out within the framework of EUROFISC should help in reinforcing the use of these tools.

Member States should ensure that their domestic legislations do not impede the full application of these tools, especially when it concerns the presence of foreign officials in the tax offices or at the premises of the taxpayer.

#### 4.1.6. *Action regarding third countries*

##### **20. *Obtain an authorisation from Council to start negotiations with third countries for bilateral agreements on administrative cooperation in the field of VAT***

As fraudsters often exploit the absence of effective cooperation between tax administrations by carrying out fictitious transactions involving third countries, several Member States have pointed to the need to have tools of administrative cooperation similar to those already in force within the EU also available for use with third countries.

Therefore, the Commission considers that such an authorisation to negotiate bilateral agreements with third countries aiming at an effective and binding framework for administrative cooperation in the field of VAT is absolutely required. The Commission could present a proposal for such an authorisation by 2013.

## **4.2. Actions to be undertaken in the medium term (by 2014)**

#### 4.2.1. *Enhance exchange of information*

##### **21. *Develop computerised format for automatic exchange of information***

The Commission is developing new formats for automatic exchange of information on income from employment, directors' fees, life insurance products, pensions and on ownership of and income from immovable property, pursuant to Directive 2011/16/EU<sup>22</sup>.

Furthermore, the Commission will propose practical solutions for income types other than those specified in the Directive, to be used by Member States on a voluntary basis to draw even greater benefits from the mechanisms provided for by the Directive.

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<sup>22</sup> Article 8(1) of Council Directive 2011/16/EU

## **22. Use of an EU Tax Identification Number (TIN)**

TINs are considered as providing the best means of identifying taxpayers under automatic exchange of information. The national TINs are however built according to national rules which differ considerably and make it difficult for third parties (financial institutions, employers, other) to correctly identify and register foreign TINs and for the tax authorities to report back this information to the other tax jurisdictions.

The creation of an EU TIN might constitute the best solution to overcome the current difficulties faced by Member States in properly identifying all their taxpayers (natural and non-natural persons) engaged in cross border operations. Whether this could be a unique EU number or the addition of an EU identifier to existing national TINs is an issue which should be further explored, as should be explored links with the other existing EU registration and identification systems.

Although the concept of an EU TIN is simple, its implementation is a complex issue which calls for a step-by-step approach. A public consultation will be launched by March 2013. The presentation of a subsequent legislative proposal requires further in-depth studies and the strong support of the Member States. As a first step, a possibility would be to further develop the "TIN on EUROPA" portal, by making it possible to check the validity of national TINs by linking this application with Member States' databases.

## **23. Rationalise IT instruments**

The Commission is launching a process to rationalise the IT instruments across Europe with a view to ensuring more effective and cost-efficient systems. It will notably consider the scope for developing a central IT solution for the electronic tools supporting administrative cooperation, aimed at reducing IT costs for Member States and allowing for faster and more efficient information exchange.

### **4.2.2. Tackle trends and schemes of tax fraud and tax evasion**

## **24. Guidelines for tracing money flows**

Taking into consideration the experience of some Member States in this area and the already existing Financial Intelligence Units (FIU), the Commission will develop a common methodology and guidelines to improve access to information on money flows by tax administrations, e.g. via credit cards and EU/offshore bank accounts, making it easier to trace significant transactions.

A first step has already been achieved with an in-depth sharing of experiences in the FISCALIS workshop that took place on this subject in October 2012.

## **25. Enhance risk management techniques and in particular compliance risk management**

The Risk Management Platform established in 2007 in the context of the FISCALIS programme is developing a strategic plan to compliance risk management (CRM). The main objective of the strategic plan is to ensure that all Member States achieve a higher level of compliance by taxpayers, to make the treatment of cross border risks

and the fight against fraud easier and to stimulate and enhance co-operation between the Member States. For a successful implementation of the strategic plan, it will be necessary to obtain a commitment of all Member States.

Structured exchanges of information between tax and customs administrations on the strategies to identify non-compliance could improve the knowledge of both authorities and ensure coordinated risk assessments and would be integrated into the work on the strategic plan.

#### **26. *Extend EUROFISC to direct taxation***

EUROFISC foresees a rapid exchange of information on cases of fraud in the VAT area. This relatively new system could be extended to serve a similar function in the area of direct taxation, in particular with a view to detecting and quickly disseminating information on recurrent fraud schemes and trends and aggressive tax planning.

To this end, the Commission will gather and assess the first results of EUROFISC for VAT and will then pursue its work on extending EUROFISC and its Early Warning System to the direct tax area.

#### **4.2.3. *Enhance tax compliance***

#### **27. *Create a one-stop-shop approach in all Member States***

One-stop-shops should be established in each Member State to deliver all types of tax information to taxpayers, including non-residents, thus facilitating cross border operations by eliminating tax obstacles and therefore, ensuring better tax compliance. A first step has already been taken with the organisation, in December 2012, of a FISCALIS workshop on this subject, as a follow-up to the public consultation on direct tax obstacles in cross border situations that has already taken place in 2012. The Commission will issue a common methodology and guidelines in this domain.

#### **28. *Develop motivational incentives including voluntary disclosure programmes***

The Commission will examine the possibility of developing common methodologies and guidelines to enhance educational measures, including the generalisation of prefilled tax returns, the creation of personalised internet pages and the possibility for Member States to make widely known their administrative cooperation mechanisms, with a view to raising taxpayers' awareness on the powers of tax administrations to obtain information from other countries.

The Commission will also examine the possibility of developing motivational incentives by encouraging, through common methodologies and guidelines, voluntary disclosure programmes, the correction of errors by taxpayers on line (especially if personalised internet pages are created) and the improvement of relationships between taxpayers and tax administrations.

#### **29. *Develop a tax web portal***

The Commission will improve and, where possible, extend the existing "Tax on EUROPA" web portal, in order to improve access to reliable tax information in

cross-border situations. The tax web portal could be built along the lines of the e-Justice network, accessible on EUROPA.

This project is ambitious and should be realised through a step-by-step approach, with priority being given to VAT. The first step will therefore consist of developing the VAT part of the tax web portal that will contain the rules on invoicing applicable in the Member States. It is intended to open the web portal to Member States that want to publish other information (such as tax rates). A next step will consist of integrating other tax aspects and in particular direct taxation.

### **30. *Propose an alignment of administrative and criminal sanctions***

The Commission will study the opportunity and feasibility to align the definition of certain types of tax offences, including administrative and criminal sanctions for all types of taxes. The Commission has recently proposed criminal law rules<sup>23</sup> to strengthen the fight against fraud affecting EU financial interests and believes that this issue merits further consideration in the context of the wider reflections on establishing an EU criminal policy. It will be important to ensure that any action in this area is fully integrated with similar actions in other areas of EU law, in accordance with the principles set out in the Commission Communication "Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies through criminal law" of 20 September 2011<sup>24</sup>.

### **31. *Develop an EU Standard Audit File for Tax (SAF-T)***

The use of an EU standard audit file for tax (SAF-T), along the lines of what is already in force or under development in certain Member States, would both facilitate voluntary compliance from taxable persons and facilitate tax audits.

A pilot project is currently under development in the specific context of the mini One Stop Shop for telecommunications, broadcasting and electronic services. Its further development should be envisaged.

## **4.3. Actions to be undertaken in the longer term (beyond 2014)**

There are also a number of possible actions listed in the June Communication which, according to the Council, should not be taken forward as a priority at this stage. The Commission however believes that it would be worth reconsidering them at a later stage once the implementation of the other, more urgent, elements of this action plan is more advanced. These actions include:

### **32. *A methodology for joint audits by dedicated teams of trained auditors***

This issue should be reviewed once more experience has been gained with the use of existing legal instruments such as simultaneous audits. On that basis, a methodology and guidelines for joint audits could be developed. If appropriate and based on an

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<sup>23</sup> Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law – COM (2012) 363/2 of 11.07.2012.

<sup>24</sup> COM (2011) 573 final of 20.09.2011

impact assessment, the Commission could also propose a single legal basis for joint audits, involving various types of taxes.

### **33. *Develop mutual direct access to national databases***

Given the existing provisions in the VAT area with respect to VIES<sup>25</sup>, the Commission will analyse the feasibility of facilitating direct access to national databases in the realm of direct taxation. However, it is necessary first to draw experience from the application of mutual direct access in the field of VAT.

### **34. *Elaborate a single legal instrument for administrative cooperation for all taxes***

Because there are some commonalities in the context of administrative cooperation between the various tax domains, the Commission will study the feasibility, from legal and practical points of view, of having a single legal instrument for administrative cooperation for all taxes, instead of four different instruments, as currently exist. This exercise will be conducted after a certain time has elapsed, to take into consideration that all existing legal bases for administrative cooperation in the field of direct and indirect taxation as well as for recovery of taxes were recently repealed and replaced by new legislative initiatives<sup>26</sup>.

## **5. CONCLUSION**

Tax fraud and tax evasion is a multi-faceted problem which requires a coordinated and multi-pronged response. Aggressive tax planning is also a problem which requires urgent attention. These are global challenges which no single Member State can face alone.

This action plan identifies a series of specific measures which can be developed now and in years to come. It also represents a general contribution to the wider international debate<sup>27</sup> on taxation and is aimed at assisting the G20 and the G8 in its on-going work in this field<sup>28</sup>. The Commission believes that the combination of these actions can provide a comprehensive and effective response to the various challenges posed by tax fraud and evasion and can thus contribute to increasing the fairness of Member States' tax systems, to securing much needed tax revenues and ultimately to improve the proper functioning of the internal market.

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<sup>25</sup> Council Regulation N° 904/2010/EU

<sup>26</sup> Council Directive 2010/24/EU of 16 March concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84 of 31.3.2010, P. 1); Council Regulation N° 904/2010/EU of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268 of 12.10.2010, P. 1); 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 of 11.3.2011, P.1); Council Regulation N° 389/2012/EU of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) N° 2073/2004 (OJ L 121 of 8.5.2012, P. 1)

<sup>27</sup> See e.g. Joint statement by the UK and Germany of 05.11.2012 calling for international action to strengthen tax standards, [http://www.hm-treasury.gov.uk/chx\\_statement\\_051112.htm](http://www.hm-treasury.gov.uk/chx_statement_051112.htm)

<sup>28</sup> See G20 Leaders Declaration of 19 June 2012, Los Cabos. "We reiterate the need to prevent base erosion and profit shifting and we will follow with attention the on-going work of the OECD in this area"



In order to ensure that the actions described in this action plan will be duly implemented, the Commission will put in place appropriate monitoring and scoreboards, which includes in particular regular exchanges of views in relevant committees and working groups on the basis of detailed questionnaires.