



Council of the  
European Union

Brussels, 26 October 2016  
(OR. en)

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## PROPOSAL

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	26 October 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2016) 686 final ANNEXES 1 to 2
Subject:	ANNEXES to the Proposal for a COUNCIL DIRECTIVE on Double Taxation Dispute Resolution Mechanisms in the European Union

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Delegations will find attached document COM(2016) 686 final ANNEXES 1 to 2.

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Encl.: COM(2016) 686 final ANNEXES 1 to 2



Strasbourg, 25.10.2016  
COM(2016) 686 final

ANNEXES 1 to 2

**ANNEXES**

**to the**

**Proposal for a COUNCIL DIRECTIVE**

**on Double Taxation Dispute Resolution Mechanisms in the European Union**

{SWD(2016) 343 final}

{SWD(2016) 344 final}

## ANNEXES

to the

### Proposal for a COUNCIL DIRECTIVE

#### on Double Taxation Dispute Resolution Mechanisms in the European Union

##### ANNEX I

###### **Belgien / Belgique**

impôt des personnes physiques/personenbelasting,

impôt des personnes morales/rechtspersonenbelasting,

impôt des non-résidents/belasting der niet-verblijfhouders

impôt des sociétés/vennootschapsbelasting

###### **България**

данък върху доходите на физическите лица

корпоративен данък

###### **Česká republika**

Daň z příjmů fyzických osob

Daň z příjmů právnických osob

###### **Danmark**

selskabsskat

indkomstskat til staten

kommunale indkomstskat

amtskommunal indkomstskat

saerlig indkomstskat

selskabsskat

###### **Deutschland**

Einkommensteuer

Körperschaftsteuer

###### **Eesti**

Tulumaks

## **Éire/Ireland**

Income Tax

Corporation Tax

## **Ελλάδα**

Φόρος εισοδήματος φυσικών προσώπων

Φόρος εισοδήματος νομικών προσώπων (κερδοσκοπικού χαρακτήρα)

## **España**

Impuesto sobre la renta de las personas físicas

Impuesto sobre sociedades

## **France**

Impôt sur le revenu

Impôt sur les sociétés

## **Republika Hrvatska**

Porez na dohodak

Porez na dobit

## **Italia**

Imposta sul reddito delle persone fisiche

Imposta sul reddito delle società

## **Κύπρος**

Έκτακτη Εισφορά για την Άμυνα της Δημοκρατίας

Φόρος Εισοδήματος

## **Latvija**

iedzīvotāju ienākuma nodoklis

uzņēmumu ienākuma nodoklis

## **Lietuva**

Gyventojų pajamų mokestis

Pelno mokestis

## **Luxembourg**

impôt sur le revenu des personnes physiques

impôt sur le revenu des collectivités

### **Magyarország**

személyi jövedelemadó

Társasági adó

### **Malta**

Taxxa fuq l-income

### **Nederland**

inkomstenbelasting

vennootschapsbelasting

### **Österreich**

Einkommensteuer

Körperschaftsteuer

### **Polska**

Podatek dochodowy od osób fizycznych

Podatek dochodowy od osób prawnych

### **Portugal**

imposto sobre o rendimento das pessoas singulares

imposto sobre o rendimento das pessoas colectivas

### **România**

impozitul pe venit

impozit pe profit

### **Slovenija**

Dohodnina

Davek od dobička pravnih oseb

### **Slovensko**

Daň z príjmov fyzických osôb

Daň z príjmov právnických osôb

### **Suomi/Finland**

valtion tuloverot/de statliga inkomstskatterna

yhteisöjen tulovero/inkomstskatten för samfund

**Sverige**

statlig inkomstskatt

**United Kingdom**

Income Tax

Corporation Tax

## ANNEX II

### RULES OF FUNCTIONING OF THE ADVISORY COMMISSION OR ALTERNATIVE DISPUTE RESOLUTION COMMISSION

#### 1. GENERAL INFORMATION

Names of the parties:

Member State of residence or establishment:

Full address and details of a contact person for the parties (including phone number and email address):

Names and details of the parties' counsel:

#### 2. COMPOSITION OF THE ADVISORY COMMISSION OR Alternative Dispute Resolution COMMISSION

##### 2.1. Form:

**Advisory Commission**

**Alternative Dispute Resolution Commission**, please specify (*Conciliation, Mediation, etc.*): \_\_\_\_\_

##### Number of Members:

–  Chair

–  \_\_\_\_ Independent persons of standing (*an even number shall be mentioned*)

–  \_\_\_\_ Competent authorities' representatives (*maximum of 4, i.e. 2 representatives of each competent authority, which can be reduced to 2*)

##### 2.2. Members' full details and contact information (*including name of a contact person, full mail address, email address and phone number, CVs and references of the independent persons shall be attached to the present Rules. Specific references on independence and expertise should be included in these CVs attached*):

Chair:

\_\_\_\_\_  
\_\_\_\_\_

Citizenship: \_\_\_\_\_ Place of residence: \_\_\_\_\_

Independent person (appointed by \_\_\_\_\_):

\_\_\_\_\_

Citizenship: \_\_\_\_\_ Place of residence: \_\_\_\_\_

Independent person (appointed by \_\_\_\_\_):

\_\_\_\_\_

Citizenship: \_\_\_\_\_ Place of residence: \_\_\_\_\_

Competent authorities (Representative appointed for \_\_\_\_\_)

\_\_\_\_\_

Competent authorities (Representative appointed for \_\_\_\_\_)

\_\_\_\_\_

Competent authorities (Representative appointed for \_\_\_\_\_)

\_\_\_\_\_

Competent authorities (Representative appointed for \_\_\_\_\_)

\_\_\_\_\_

### 3. DESCRIPTION AND CHARACTERISTICS OF THE CASE

#### Subject matter description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Tax period(s):

\_\_\_\_\_  
\_\_\_\_\_

#### Sector/industry categories:

\_\_\_\_\_  
\_\_\_\_\_

#### Legal references (law(s) and treaty involved – International practices):

**National law provisions** (Detailed reference of the corresponding articles shall be provided – the full provisions can be attached hereto)

\_\_\_\_\_  
\_\_\_\_\_

**Double taxation convention** (Detailed reference of the corresponding articles shall be provided – the full provisions can be attached hereto)



Indicate whether:

- Signed double taxation convention between the two [or more] Member States (date of signature: \_\_\_\_\_ )

And, in case no double taxation convention is in force:

- Model OECD tax treaty (date: \_\_\_\_\_ )
- Any other reference agreed by the competent authorities:

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**Estimated computation of the disputed double taxation** *(Total amount and details per fiscal year on the tax in principal, interest and penalties, tax rates applicable and corresponding tax basis)*

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**Comments by the taxpayer on the above-mentioned information:**

*(Comments can be inserted hereafter by the taxpayer as part of the procedure)*

**Subject matter description:**

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**Tax period:**

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**Legal basis references (law(s) and treaty involved):**

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**Computation of the disputed double taxation** *(Total amount and details per fiscal year on the tax in principal, interests and penalties, tax rates applicable and corresponding tax basis)*

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#### 4. TERMS OF REFERENCE AGREED BY THE COMPETENT AUTHORITIES

**Description of the legal issues subject to interpretation in the double taxation disputed case:**

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**Description of the factual circumstances to be considered and factual issues on which competent authorities need clarification and/or interpretation by the**

**Advisory Commission or Alternative Dispute Resolution Commission:**

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**Questions to be addressed by the Advisory Commission or Alternative Dispute Resolution Commission in their Opinion:**

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**5. TIME FRAME AND CALENDAR FOR THE DECISION PROCESS**

**Expected date for the Final Opinion:**

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**Scheduling of written submissions by the parties:**

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**Scheduling of the consecutive or simultaneous submissions *(if any)*:**

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**Scheduling of supporting positions by the competent authorities *(if any)*:**

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**Time-limits for submission of documentary evidence intended to be submitted by the parties; consequences of late submission *(if any)*:**

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**Scheduling of the submission of their opinion(s) by respectively the independent persons and the representatives of the competent authorities *(if any)*:**

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**Scheduled dates for hearings *(if any)* and place of hearings *(if any)*:**

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**6. TYPE OF RESOLUTION PROCESS**

- “Independent opinion” process
- "Last final offer" process
- Other, please specify: \_\_\_\_\_

**7. COSTS**

**Details on the costs (nature, expected amounts) to be shared equally between the Member States:**

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Including, if any:

- Remuneration of the independent persons \_\_\_\_\_
- Other expenses and *per diem* incurred by the independent persons \_\_\_\_\_
- Translation costs \_\_\_\_\_
- Interpretation costs \_\_\_\_\_
- Other administrative costs (including Secretariat costs)  
\_\_\_\_\_
- Other information and arrangements regarding costs (*to be specified*):  
- \_\_\_\_\_  
- \_\_\_\_\_  
- \_\_\_\_\_  
- \_\_\_\_\_  
- \_\_\_\_\_  
- \_\_\_\_\_

## 8. ORGANISATION AND FUNCTIONING

[NB: the mentions in bold characters in this section should be compulsorily filled out]

**Place of meeting of the Advisory or Alternative Dispute Resolution Commission:**

\_\_\_\_\_

Possibility of meetings outside the place of Advisory or Alternative Dispute Resolution Commission: \_\_\_\_\_

**Administrative services that may be needed for the Advisory or Alternative Dispute Resolution Commission to carry out its functions:**

\_\_\_\_\_

**Common working language for the dispute resolution procedure:**

\_\_\_\_\_

Possible need for translation of documents (in full or in part): \_\_\_\_\_

Possible need for interpretation of oral presentations: \_\_\_\_\_

Routing of written communications among the parties (incl. Means of sending documents by email, oral communication, *webex conference call*, specific IT tools, etc.):

\_\_\_\_\_

Practical details concerning written submissions and evidence (e.g. method of submission, copies, numbering, references):

\_\_\_\_\_

**Routing of written communications among the parties (incl. means of sending documents):**

\_\_\_\_\_

**Arrangements for the exchange of written submissions:**

\_\_\_\_\_

**Arrangements for requests of information by the Advisory Commission or Alternative Dispute Resolution Commission and subsequent replies by the taxpayer and the competent authorities:** \_\_\_\_\_

Practical details concerning written submissions and evidence (e.g. method of submission, copies, numbering, references):

\_\_\_\_\_

**Whether a party is expected to produce documentary evidence:** \_\_\_\_\_

Experts (terms and conditions of submission of oral and written position):

\_\_\_\_\_

Should assertions about the origin and receipt of documents and about the correctness of photocopies be assumed as accurate: \_\_\_\_\_

Should voluminous and complicated documentary evidence be presented through summaries, tabulations, charts, extracts or samples: \_\_\_\_\_

**Decision whether to hold hearings (and number of hearings):**

\_\_\_\_\_

Whether one period of hearings should be held or separate periods of hearings: \_\_\_\_\_

Whether there should be a limit on the aggregate amount of time each party will have for oral arguments and questioning witnesses: \_\_\_\_\_

The order in which the parties will present their arguments and evidence: \_\_\_\_\_

Length of hearings:  
\_\_\_\_\_

Arrangements for a record of the hearings: \_\_\_\_\_

Possible requirements concerning filing or delivering of their position by respectively the independent persons and the competent authorities' representatives:  
\_\_\_\_\_

Possible requirements concerning filing or delivering the written Opinion:  
\_\_\_\_\_

Other (*to be specified, including other procedural, evidentiary and logistical arrangements which may be applicable*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**9. OTHERS**

[*to be completed*]:

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Date:**

**Signature by the representatives of the competent authorities of the Member States:**

\_\_\_\_\_