



Council of the  
European Union

Brussels, 8 June 2018  
(OR. en)

9932/18

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**Interinstitutional File:**  
**2018/0233 (COD)**

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**FISC 260**  
**ECOFIN 596**  
**CODEC 1014**

## PROPOSAL

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| From:            | Secretary-General of the European Commission,<br>signed by Mr Jordi AYET PUIGARNAU, Director   |
| date of receipt: | 8 June 2018  |
| To:              | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of<br>the European Union   |
| No. Cion doc.:   | COM(2018) 443 final  |
| Subject:         | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND<br>OF THE COUNCIL establishing the 'Fiscalis' programme for cooperation in<br>the field of taxation |

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Delegations will find attached document COM(2018) 443 final.

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Encl.: COM(2018) 443 final



Brussels, 8.6.2018  
COM(2018) 443 final

2018/0233 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the 'Fiscalis' programme for cooperation in the field of taxation**

{SWD(2018) 323 final} - {SWD(2018) 324 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

On 2 May 2018, the Commission adopted a package on the next Multi-Annual Financial Framework for the period 2021-2027<sup>1</sup>. The Commission proposed a new, modern long-term budget, tightly geared to the political priorities of the Union at 27. The proposed budget combines new instruments with modernised programmes to deliver efficiently on the Union's priorities. Building on those foundations, the Commission is proposing a new Fiscalis programme under the Single Market, Innovation and Digital budget heading. This programme will contribute to improve the operation of tax policy, including administrative cooperation, and support tax authorities as described in the Communication accompanying the Multi-Annual Financial Framework proposal<sup>2</sup>,

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017.

#### • **Reasons and objectives**

The Union and the national tax authorities still suffer from insufficient capacity and insufficient cooperation – both within the EU and with third countries – to carry out effectively and efficiently their missions. They need to provide quick and joint responses to emerging problems such as tax fraud, tax evasion and tax avoidance, digitalisation and new business models, while at the same time preventing unnecessary administrative burden for citizens and businesses in cross-border transactions. These trends raise continuously new challenges for the functioning and performance of national tax authorities. They call for better and innovative ways to carry out their core task i.e. collecting taxes which directly feed the national and indirectly the Union budget. The Commission therefore proposes a Fiscalis programme comprising means and a budget that will support tax policy and tax authorities through administrative and information technology (IT) capacity building activities and operational cooperation.

#### • **Consistency with existing policy provisions**

This proposal is in line with the Commission agenda to ensure a fair and efficient tax system in the Union with a view, inter alia, to protect Member States' tax authorities' ability to collect taxes. Many of the initiatives adopted in that framework aim at increasing tax transparency and enhancing administrative cooperation, inter alia, through exchange of relevant tax information. The proposed Fiscalis programme will provide the budgetary and other means to support and implement these regulatory interventions<sup>3</sup>. Important features of this

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<sup>1</sup> COM(2018) 322 final

<sup>2</sup> COM(2018) 321 final

<sup>3</sup> Examples of regulatory interventions include a.o. the following:

- Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation, OJ L 64, 11.3.2011, p. 1;

- Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347, 11.12.2006, p. 1;

- Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties, OJ L 121, 8.5.2012, p. 1;

- Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, OJ L 84, 31.3.2010, p. 1.

administrative cooperation are the relevant European electronic systems, which concretely enable Member States' tax authorities to exchange information.

- **Consistency with other Union policies**

This proposal is consistent with other proposed EU action programmes that pursue similar objectives in related fields of competence and especially:

- The Customs programme<sup>4</sup>, that supports cooperation in the field of customs;
- The EU anti-fraud programme<sup>5</sup> that combats fraud for the protection of Union financial interests in accordance with Article 325 TFEU;
- The Single Market Programme<sup>6</sup>, which supports EU actions for achieving a better functioning of the single market;
- The Reform Support Programme<sup>7</sup> that helps specific EU countries to build more effective institutions, stronger governance frameworks and efficient public authorities.

Finally, there are possibly further synergies to exploit in the IT area with various Union initiatives, such as the Digital Europe Programme<sup>8</sup>, all programmes that run (significant) electronic systems, the reuse of the building blocks<sup>9</sup> of the Connecting Europe Facility (CEF), the European Interoperability Framework<sup>10</sup>, the Rolling Plan for ICT standardisation<sup>11</sup>, the action plan on FinTech<sup>12</sup>, the Horizon Europe<sup>13</sup> or the work of the EU Blockchain Observatory and Forum<sup>14</sup> and other initiatives about fraud and cybersecurity risks,

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

An important part of the Fiscalis programme concerns the support of the exchange of information between Member States in the framework of administrative cooperation in the taxation area in the European Union. The relevant Union legislation on administrative cooperation provides for the use by the Member States of the European electronic systems. The present proposal specifies that the Commission and the Member States will ensure that the European electronic systems referred to in Chapter IV are adequately developed and operated. In this context, it provides that they will regularly coordinate their respective interventions and agree on all aspects necessary to ensure the operability, interconnectivity and continuous improvement of the European electronic systems. Provision is also made on the tasks and responsibilities that they have to take on for the coordination of the establishment and functioning of the common and national components of the European

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<sup>4</sup> COM(2018) 442

<sup>5</sup> COM(2018) 386

<sup>6</sup> COM(2018) 441

<sup>7</sup> COM(2018) 391

<sup>8</sup> COM(2018) 434

<sup>9</sup> <https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/CEF+Digital+Home>

<sup>10</sup> COM(2017) 134

<sup>11</sup> [https://ec.europa.eu/growth/industry/policy/ict-standardisation\\_en](https://ec.europa.eu/growth/industry/policy/ict-standardisation_en)

<sup>12</sup> [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/fintech\\_en#action-plan](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/fintech_en#action-plan)

<sup>13</sup> [https://ec.europa.eu/info/designing-next-research-and-innovation-framework-programme/what-shapes-next-framework-programme\\_en](https://ec.europa.eu/info/designing-next-research-and-innovation-framework-programme/what-shapes-next-framework-programme_en)

<sup>14</sup> <https://ec.europa.eu/digital-single-market/en/news/european-commission-launches-eu-blockchain-observatory-and-forum>

electronic systems, with a view to ensure their operability, interconnectivity and continuous improvement. These IT capacity building aspects together with other administrative capacity aspects of the programme will contribute to the improved functioning of the internal market and thus justify that the programme is based on Article 114 TFEU.

The proposed Fiscalis programme provides mechanisms, means as well as the necessary funding aiming to support tax policy and to improve cooperation between tax authorities. The proposed measure comprises inter alia meetings and similar ad-hoc events, project-based structured collaboration and human competency and capacity building actions, in which Member States and their officials may participate on a voluntary basis. The overall aim of those actions is to enhance administrative cooperation and improve the administrative capacity of Member States in the area of taxation which justifies the use of Article 197 TFEU.

- **Subsidiarity (for non-exclusive competence)**

The EU tax objectives of fighting against tax fraud, tax evasion and tax avoidance, improving tax fairness and transparency as well as supporting the functioning of the single market and competitiveness cannot be achieved by the Member States alone. Common rules, coordination and cooperation between Member States' tax authorities are needed to deliver on these objectives and face all related challenges.

Such a high degree of cooperation and coordination can only be achieved with a centralised approach, ideally at Union level. Fiscalis activities are more cost-effective than if each participating country were to set up individual cooperation frameworks on a bilateral or multilateral basis and develop national IT solutions for transnational problems. The Fiscalis activities and mechanisms of cooperation moreover allow deepening significantly the trust amongst national tax authorities that is necessary for a smooth cooperation and co-functioning of EU tax systems in the single market.

Against this background, the Fiscalis programme will concentrate the EU intervention on setting up efficient mechanisms (and the indispensable IT tools) for administrative cooperation, aiming at providing more effective means to national tax authorities in their fight against tax fraud, tax evasion and tax avoidance, while indirectly facilitating taxpayer's tax compliance.

- **Proportionality**

The vast majority of the proposed budget will be spent on IT capacity building activities. The chosen approach is based on an IT architecture model where European electronic systems are made up of a combination of common and national components. This model has been favoured above a fully centralised IT architecture model as the former leaves part of the budgetary responsibility with Member States which will develop the national IT components at national level taking into account also national preferences, requirements and constraints. Enhancing the interoperability and interconnectivity for the sake of the internal market is therefore achieved in a proportionate manner.

- **Choice of the instrument**

EU intervention by means of a funding programme is appropriate. A successor to the Fiscalis 2020 programme is proposed by the Commission as a regulation.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Retrospective evaluations/fitness checks of existing legislation**

This proposal takes into account the recommendations of the final evaluation of Fiscalis 2013 as well as the preliminary results of the ongoing mid-term evaluation of Fiscalis 2020. They indicate that the programme is providing strong EU added value, building trust and fostering strong cooperation between Member States and also with other participating countries (candidate countries and potential candidates). The programme also eases the implementation of EU legislation, while allowing efficiency gains (through pooling of resources) especially in the area of electronic systems (where EU intervention is resulting in economies of scale and reduced development costs) and training modules (where EU intervention is reported as saving time and money for some authorities). Participants have also reported a high and growing interest in joint actions (particularly working visits, seminars and workshops) as an effective tool that contributes to cooperation and to improve the exchange of information between tax authorities. As regards Fiscalis 2020, the introduction of Expert Teams is seen as a powerful vehicle to drive a deeper cooperation (on a regional or thematic basis) given its specific funding arrangements and operational setup. Some participants pointed out the possibility of increasing the current distribution of funds in favour of this administrative capacity building activity.

- **Stakeholder consultations**

The Commission commissioned an external study to support the ex-ante evaluation which included dedicated consultation activities to gather more broadly the view from all stakeholders. Considering the particular scope of the programme (tax authorities are the only direct beneficiaries), these consultations concentrated on tax authorities by means of discussions in a project group, country visits/case studies and dedicated surveys. Interviews with business associations, non-profit organisations and academics as well as with Fiscalis 2020 participants, consultants and international organisations (e.g. Organisation for Economic Co-operation and Development) complemented these activities.

The external study and the related consultation activities confirmed the challenging times ahead of tax authorities and the need for an ambitious programme around two key dimensions: on the one hand, continuity and reinforcement of (IT and human) capacity building and cooperation actions for a proper application of EU and national tax provisions and, on the other hand, more enhanced operational cooperation and better tackling innovation.

An open public consultation on "EU funds in the area of investment, research & innovation, SMEs and single market" was carried out. It gathered the views of citizens on, among others, policy challenges and needs for EU intervention as regards taxation.

- **External expertise**

The Commission commissioned an external study to support the ex-ante evaluation by providing quantitative and qualitative information. The objective of this assignment was to identify the key drivers setting the taxation scene in a post 2020 context as well as the problems to be faced by Member States' tax authorities which could be addressed under a future EU financing intervention, taking into account the nature of the identified drivers and their consequences.

The study helped the Commission to: - identify objectives for an EU-level intervention based on the identified drivers and problems; - identify possible EU policy options to achieve the those objectives, deploy a future EU financing intervention in response to the drivers and problems identified and assess the identified options' expected economic, social and

environmental impacts; - compare the options according to the set criteria (such as efficiency, effectiveness, relevance, coherence) and rank them.

- **Impact assessment**

Given the continuity in terms of content, structure and size of the budget of the proposed Fiscalis programme in comparison with the previous Fiscalis 2020 programme, an impact assessment was deemed unnecessary. An ex-ante evaluation has been considered as more adequate to fulfil the Better Regulation requirements in a proportionate manner.

- **Simplification**

The on-going programme is already streamlined with a strong focus on outputs and results. It implements all simplifications identified in past evaluations. The main additional simplification identified would consist in an extended use of lump sums / unit costs and the possibility to adopt multi-annual work programmes to avoid the annual administrative burden of comitology.

- **Fundamental rights**

The proposal has no impact on fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

The timing of the review of EU funding programmes is linked to the proposal for a new Multiannual Financial Framework, as proposed on 2 May 2018<sup>15</sup>. In accordance with this proposal, this Regulation on the Fiscalis programme contains a budgetary framework of EUR 270 million (in current prices) for the period 2021-2027.

The Fiscalis programme will be implemented in direct management mode and in a priority-based manner. Work programmes are established – together with the stakeholders – stipulating the priorities for a specific period.

The programme will have an impact on the Union and Member States revenue. Although not quantifiable, it will facilitate and streamline the work done by tax authorities for the collection of direct and indirect taxes. By increasing the quality of work through cooperation and IT and human capacity building, tax authorities will be more efficient for protecting the financial and economic interests of the Union and of its Member States.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The impact of the proposed Fiscalis programme will be assessed through interim and final evaluations as well as by monitoring on an ongoing basis a set of high-level key performance indicators. These evaluations will be carried out in line with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016<sup>16</sup>, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments of options for further action; The evaluations will assess the Instrument's effects on the ground based on indicators and targets and on a detailed analysis of the degree to which the instrument can be deemed relevant, effective, and efficient, provides enough EU added value and is coherent with other EU policies. They will include lessons learnt to identify any

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<sup>15</sup> COM(2018) 322 final

<sup>16</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1-14

lacks/problems or any potential to further improve the actions or their results and to help maximise their impact. They will also include identification and quantification of regulatory costs, benefits and savings.

The evaluation reporting system will ensure that data for programme evaluation are collected efficiently, effectively, in a timely manner and at the appropriate level of granularity; such data and information will be communicated to the Commission, in a way that complies with other legal provisions; for instance, when necessary, personal data should be made anonymous. To that end, proportionate reporting requirements will be imposed on recipients of Union funds.

The results and outputs of the programme will be regularly subject to assessment through a comprehensive monitoring system, based on defined indicators in view of accountability for value for money.

Data for measuring performance will be drawn from various data collection tools. The main tools envisaged at present are action follow-up forms, event assessment forms and regular polls of tax officials.

Since the programme plays a supporting role, helping participating country authorities to share information and boost their capacity, the monitoring system focuses on following the progress of the programme' activities in terms of indicators at outputs levels. Whenever possible, it also follows indicators in areas related to the programme's high-level objectives.

The Commission will, on a yearly basis, issue a programme progress report containing a summary of performance towards the programme objectives and the related output and result indicators.

- **Detailed explanation of the specific provisions of the proposal**

### ***Chapter I - General Provisions***

The scope of the programme has been adjusted to allow providing support in a more comprehensive manner to tax policy and tax authorities in view of emerging needs. While the ongoing Fiscalis 2020 programme has as an overall objective to improve the proper functioning of the taxation systems in the internal market, the proposed programme will provide support to tax policy and national tax authorities and thus better mirror support needs deriving inter alia from other policy initiatives at EU and national level. As such, the programme intends to contribute to preventing and fighting tax fraud, tax evasion and tax avoidance; preventing and reducing unnecessary administrative burden for citizens and businesses in cross-border transactions; achieving the full potential of the single market and foster EU competitiveness; and promote and support a joint Union approach in international fora. Therefore, even if presented slightly differently and in a simplified manner – without operational objectives –, the objectives of the programme remains equivalent in principle.

Like the ongoing Fiscalis 2020 programme, the new programme will be open for participation to Member States, acceding countries, candidate countries and potential candidates. In line with overall Union policy, countries of the European Neighbourhood Policy and third countries in accordance with the conditions laid down in specific agreements between the Union and those countries will also have the possibility to take part in the programme under certain conditions.

### ***Chapter II - Eligibility***

The types of actions considered eligible for programme funding are in essence similar to the ones under the current programme. Their typology has however been simplified and reduced

in order to provide for more flexibility. The indicative list in Annex 1 provides an overview of concrete actions which could be funded under the programme.

Based on the lessons learnt with the current Expert Teams tool under the Fiscalis 2020 programme, the proposal provides specific focus on project-based structure cooperation aimed at boosting enhanced operational cooperation and allowing for deep and integrated forms of cooperation between participating countries.

A novelty compared to the current programme is the provision concerning actions which are necessary for adapting or extending the European electronic systems for cooperation with third countries not associated to the Programme and international organisations. This provides an easier and more straightforward mechanism than the one included in the Fiscalis 2020 programme, which does not allow financing any modification to the European electronic systems for use without an international agreement concluded with the relevant third country according with Article 218 of the TFUE. To guarantee for an optimal response time for putting in place such interconnectivity with third countries, the proposal allows for funding of the necessary adaptations or extensions and for adopting administrative arrangements comprising the relevant conditions, including possibly a financial contribution due by the third country or international organisation in question. This would be possible only if the action is of interest to the Union.

Considering the importance of globalisation, the Programme will continue to provide the possibility of involving representatives of governmental authorities, including from third countries, as well as representatives of international organisations, economic operators or civil society as external experts, where beneficial for the actions implementing the objective of the Programme.

### ***Chapter III - Grants***

The implementation of the programme will occur through the most commonly used spending mechanisms of Union budget, namely public procurement and grants. As regards grants, the proposal stipulates that no call for proposal will apply where the eligible entities are tax authorities.

As in the past, the Programme should fund actions up to 100% given their strong EU added value. Where actions require the awarding of grants, the applicable co-financing rate will be set out in the work programmes.

### ***Chapter IV - Specific provisions for IT capacity building actions***

The provisions under this chapter aim at providing an improved framework and governance for the IT capacity building actions carried out under the programme. Building on the experience of previous Fiscalis programmes and in view of the increasing number of European electronic systems, some novelties are proposed. An improved definition of common components and national components reflecting better the reality of IT projects and their features has been integrated. The tasks incumbent on the Commission on the one hand, and the Member States on the other hand, have been listed. Finally, a Multi-Annual Strategic Plan for Taxation to be drawn up by the Commission, in partnership with the Member States, will allow for a better planning of budgetary and human resources both at national and EU level. Accompanying reporting duties have been introduced to allow for a better monitoring of IT capacity building actions.

### ***Chapter V - Programming, monitoring, evaluation and control***

In view of the mid to long-term nature of the objectives pursued and building on experience gained over time, work programmes should cover several years. This is a novelty compared to

the current Fiscalis 2020 programme which foresees annual work programmes. While not impacting the implementation of the Programme, multiannual work programmes will reduce the administrative burden for both the Commission and Member States.

A Fiscalis Programme committee (examination procedure) will assist the Commission.

A list of core indicators has been added in Annex 2 to improve the monitoring of the programme and its performance from the outset. The Commission will be empowered to adopt delegated acts to develop the provisions for a monitoring and evaluation framework including through amendments to annex 2 to review and/or complement the list of indicators where necessary.

Interim and final evaluations will be carried out in a timely manner to feed into the decision-making process.

#### ***Chapter VI - Exercise of the delegation and committee procedure***

The Commission is empowered to adopt delegated powers as regards the review of the performance monitoring framework and related indicators.

A Fiscalis Programme committee (examination procedure) will assist the Commission.

#### ***Chapter VII - Transitional and final provisions***

Coherent, effective and proportionate targeted information to multiple audiences will be ensured, including the medial and public.

Proposal for a

## **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

### **establishing the 'Fiscalis' programme for cooperation in the field of taxation**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114 and 197 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Fiscalis 2020 programme, which was established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council<sup>2</sup> and is implemented by the Commission in cooperation with the Member States and associated countries, and its predecessors have significantly contributed to facilitating and enhancing cooperation between tax authorities within the Union. The added value of those programmes, including as regards the protection of the financial and economic interests of Member States of the Union and of taxpayers, has been recognised by the tax authorities of the participating countries. The challenges identified for the next decade cannot be tackled if Member States do not look beyond the borders of their administrative territories or cooperate intensively with their counterparts.
- (2) The Fiscalis 2020 programme offers Member States a Union framework within which to develop those cooperation activities, and which is more cost-effective than if each Member State were to set up individual cooperation frameworks on a bilateral or multilateral basis. It is therefore appropriate to ensure the continuation of that programme by establishing a new programme in the same area, the Fiscalis programme ('the Programme').
- (3) In providing a framework for actions which supports the single market, fosters Union competitiveness and protects the financial and economic interests of the Union and its Member States, the Programme should contribute to preventing and fighting tax fraud, tax evasion and tax avoidance; preventing and reducing unnecessary administrative burden for citizens and businesses in cross-border transactions; achieving the full

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

potential of the single market and fostering Union competitiveness; and supporting a joint Union approach in international fora.

- (4) This Regulation lays down a financial envelope for the Programme, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>3</sup>, for the European Parliament and the Council during the annual budgetary procedure.
- (5) In order to support the process of accession and association by third countries, the Programme should be open to the participation of acceding and candidate countries as well as potential candidates and partner countries of the European Neighbourhood Policy if certain conditions are fulfilled. It may also be open to other third countries, in accordance with the conditions laid down in specific agreements between the Union and those countries covering their participation to any Union programme.
- (6) Regulation (EU, Euratom) [2018/XXX] of the European Parliament and of the Council<sup>4</sup> (the 'Financial Regulation') applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement and reimbursements of external experts.
- (7) The actions which applied under the Fiscalis 2020 programme have proven to be adequate and should therefore be maintained. In order to provide more simplicity and flexibility in the execution of the Programme and thereby better deliver on its objectives, the actions should be defined only in terms of overall categories with a list of illustrative examples of concrete activities. Through cooperation and capacity building, the Fiscalis programme should also promote and support the uptake and leverage of innovation to further improve the capabilities to deliver on the core priorities of taxation.
- (8) Given the increasing mobility of taxpayers, the number of cross-border transactions and the internationalisation of financial instruments, which go well beyond the Union borders, adaptations of or extensions of European electronic systems to third countries not associated to the Programme and international organisations could have an interest for the Union or the Member States. In particular, they would avoid the administrative burden and the costs implied by developing and operating two similar electronic systems for, respectively, Union and international exchanges of information. Therefore, when duly justified by such an interest, adaptations of or extensions to European electronic systems for cooperation with third countries and international organisations should be eligible costs under the Programme.
- (9) Considering the importance of globalisation, the Programme should continue to provide the possibility of involving external experts within the meaning of Article 238 of the Financial Regulation. Those external experts should mainly be representatives of governmental authorities, including from non-associated third countries, as well as representatives of international organisations, economic operators, taxpayers and civil society.
- (10) In line with the Commission's commitment to ensure the coherence and simplification of funding programmes, set out in its Communication of 19 October 2010 entitled 'The

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<sup>3</sup> OJ C 373, 20.12.2013, p. 1

<sup>4</sup> COM(2016) 605 FINAL

EU Budget Review'<sup>5</sup>, resources should be shared with other Union funding instruments if the envisaged actions under the Programme pursue objectives that are common to various funding instruments, excluding however double financing. Actions under the Programme should ensure coherence in the use of the Union's resources supporting tax policy and tax authorities.

- (11) Information Technology (IT) capacity building actions are set to attract the greatest part of the budget under the Programme. Therefore, specific provisions should describe, respectively, the common and national components of the European electronic systems. Moreover, the scope of actions and the responsibilities of the Commission and the Member States should be clearly defined.
- (12) Currently, there is no requirement to draw up a Multi-Annual Strategic Plan for Taxation ('MASP-T') for creating a coherent and interoperable electronic environment for taxation in the Union. In order to ensure coherence and coordination of IT capacity building actions, the Programme should provide for the creation of such a MASP-T.
- (13) This Regulation should be implemented by means of work programmes. In view of the mid to long-term nature of the objectives pursued and building on experience gained over time, work programmes should be able to cover several years. The shift from annual to multiannual work programmes will reduce the administrative burden for both the Commission and Member States.
- (14) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>6</sup>.
- (15) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>7</sup>, there is a need to evaluate this programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Instrument on the ground.
- (16) In order to respond appropriately to changes in tax policy priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the list of indicators to measure the achievement of the specific objectives of the Programme. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>5</sup> COM (2010) 700 final

<sup>6</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>7</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-making of 13 April 2016; OJ L 123, 12.5.2016, p. 1-14.

- (17) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>8</sup>, and Council Regulations (Euratom, EC) No 2988/95<sup>9</sup>, (Euratom, EC) No 2185/96<sup>10</sup> and (EU) 2017/1939<sup>11</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>12</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.
- (18) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.
- (19) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.

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<sup>8</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L248, 18.9.2013, p. 1).

<sup>9</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).

<sup>10</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L292, 15.11.96, p.2).

<sup>11</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L283, 31.10.2017, p.1).

<sup>12</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (20) Since the objective of this Regulation cannot be sufficiently achieved by the individual Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (21) This Regulation replaces Regulation (EU) No 1286/2013 of the European Parliament and of the Council, which should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

## *CHAPTER I*

### *GENERAL PROVISIONS*

#### *Article 1*

##### *Subject matter*

1. This Regulation establishes the 'Fiscalis' programme for cooperation in the field of taxation ('Programme').
2. It lays down the objectives of the Programme, the budget for the period 2021 – 2027, the forms of Union funding and the rules for providing such funding.

#### *Article 2*

##### *Definitions*

For the purposes of this Regulation, the following definitions apply:

- (1) 'taxation' means matters, including the design, administration, enforcement and compliance, relating to the following taxes and duties:
  - (a) value added tax provided for in Council Directive 2006/112/EC<sup>13</sup>;
  - (b) excise duties on alcohol provided for in Council Directive 92/83/EEC<sup>14</sup>;
  - (c) excise duties on tobacco products provided for in Council Directive 2011/64/EU<sup>15</sup>;
  - (d) taxes on energy products and electricity provided for in Council Directive 2003/96/EC<sup>16</sup>;

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<sup>13</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347 (11.12.2006, p. 1).

<sup>14</sup> Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21).

<sup>15</sup> Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (OJ L 176, 5.7.2011, p. 24).

<sup>16</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

- (e) other taxes and duties referred to in Article 2(1)(a) of Council Directive 2010/24/EU<sup>17</sup> in so far as they are relevant for the single market and for administrative cooperation between the Member States;
- (2) 'tax authorities' means the public authorities and other bodies, which are responsible for taxation or tax-related activities;
- (3) 'European electronic systems' means electronic systems necessary for taxation and for the execution of the missions of tax authorities;
- (4) 'third country' means a country that is not member of the Union.

### *Article 3*

#### *Programme objectives*

1. The Programme has the general objective to support tax authorities and taxation to enhance the functioning of the single market, foster Union competitiveness and protect the financial and economic interests of the Union and its Member States.
2. The Programme has the specific objective to support tax policy, tax cooperation and administrative capacity building, including human competency and the development and operation of the European electronic systems.

### *Article 4*

#### *Budget*

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR 270 000 000 in current prices.
2. The amount referred to in paragraph 1 may also cover expenses for preparation, monitoring, control, audit, evaluation and other activities for managing the Programme and evaluating the achievement of its objectives. It may moreover cover expenses relating to studies, meetings of experts, information and communication actions, in so far as they are related to the objectives of the Programme, as well as expenses linked to information technology networks focusing on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of the Programme.

### *Article 5*

#### *Third countries associated to the Programme*

The Programme shall be open to the following third countries:

- (a) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements

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<sup>17</sup> Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

- (b) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries, provided that those countries have reached a sufficient level of approximation of the relevant legislation and administrative methods to those of the Union;
- (c) other third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement:
  - ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;
  - lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of Regulation [2018/XXX] [the new Financial Regulation];
  - does not confer to the third country a decisional power on the Programme;
  - guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

#### *Article 6*

##### *Implementation and forms of EU funding*

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation.
2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes, procurement and reimbursement of travel and subsistence expenses incurred by external experts.

#### *CHAPTER II*

##### *ELIGIBILITY*

#### *Article 7*

##### *Eligible actions*

1. Only actions implementing the objectives referred to in Article 3 shall be eligible for funding.
2. Actions referred to in paragraph 1 shall include the following:
  - (a) meetings and similar ad-hoc events;

- (b) project-based structured collaboration;
- (c) IT capacity building actions, in particular the development and operation of European electronic systems;
- (d) human competency and capacity building actions;
- (e) support and other actions, including:
  - (1) studies;
  - (2) innovation activities, in particular proof-of-concepts, pilots and prototyping initiatives;
  - (3) jointly developed communication actions;
  - (4) any other action provided for in the work programmes referred to in Article 13, which is necessary for attaining or in support of the objectives set out in Article 3.

Possible forms of actions referred to in points (a), (b) and (d) are presented in a non-exhaustive list in Annex 1.

3. Actions consisting in the development and operation of adaptations or extensions to the common components of the European electronic systems for cooperation with third countries not associated to the Programme or international organisations shall be eligible for funding when they are of interest to the Union. The Commission shall put in place the necessary administrative arrangements, which may provide for a financial contribution from the third parties concerned to these actions.
4. Where an IT capacity building action referred to in point (c) of paragraph 2 concerns the development and operation of a European electronic system, only the costs related to the responsibilities entrusted to the Commission pursuant to Article 11(2) shall be eligible for funding under the Programme. Member States shall bear the costs related to the responsibilities entrusted to them pursuant to Article 11(3).

## *Article 8*

### *External experts*

1. Wherever beneficial for the achievement of the actions implementing the objectives referred to in Article 3, representatives of governmental authorities, including those from third countries not associated to the programme pursuant to Article 5, representatives of international and other relevant organisations, of economic operators and organisations representing economic operators and of civil society may take part as external experts to actions organised under the Programme.
2. Costs incurred by the external experts referred to in paragraph 1 shall be eligible for reimbursement under the Programme in accordance with the provisions of Article 238 of the Financial Regulation.
3. The external experts shall be selected by the Commission based on their skills, experience and knowledge relevant to the specific action, avoiding any potential conflict of interest.

## CHAPTER III

### GRANTS

#### Article 9

##### *Award, complementarity and combined funding*

1. Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
2. An action that has received a contribution from another Union programme may also receive a contribution under the Programme, provided that the contribution do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
3. In accordance with Article 198(f) of the Financial Regulation, the grants shall be awarded without a call for proposals where the eligible entities are tax authorities of the Member States and of the third countries associated to the Programme as referred to in Article 5 of this Regulation, provided that the conditions set out in that Article are met.

#### Article 10

##### *Co-financing rate*

1. By derogation to Article 190 of the Financial Regulation, the Programme may finance up to 100 % of eligible costs of an action.
2. The applicable co-financing rate where actions require the awarding of grants shall be set out in the multiannual work programmes referred to in Article 13.

## CHAPTER IV

### *SPECIFIC PROVISIONS FOR IT CAPACITY BUILDING ACTIONS*

#### Article 11

##### *Responsibilities*

1. The Commission and the Member States shall ensure jointly the development and operation, including the design, specification, conformance testing, deployment, maintenance, evolution, security, quality assurance and quality control, of the European electronic systems listed in the Multi-Annual Strategic Plan for Taxation referred to in Article 12.
2. The Commission shall, in particular, ensure the following:

- (a) the development and operation of common components as established under the Multi-Annual Strategic Plan for Taxation provided for in Article 12;
  - (b) the overall coordination of the development and operation of European electronic systems with a view to their operability, interconnectivity and continuous improvement and their synchronised implementation;
  - (c) the coordination at Union level of European electronic systems with a view to their promotion and implementation at national level;
  - (d) the coordination of the development and operation of European electronic systems as regards their interactions with third parties, excluding actions designed to meet national requirements;
  - (e) the coordination of European electronic systems with other relevant actions relating to e-Government at Union level.
3. The Member States shall, in particular, ensure the following:
- (a) the development and operation of national components as established under the Multi-annual Strategic Plan for Taxation provided for in Article 12;
  - (b) the coordination of the development and operation of the national components of European electronic systems at national level;
  - (c) the coordination of European electronic systems with other relevant actions relating to e-Government at national level;
  - (d) the regular provision to the Commission of information regarding the measures taken to enable their respective authorities or economic operators to make full use of European electronic systems;
  - (e) the implementation at national level of European electronic systems.

### *Article 12*

#### *Multi-Annual Strategic Plan for Taxation (MASP-T)*

1. The Commission shall draw up and keep updated a Multi-Annual Strategic Plan for Taxation listing all tasks relevant for the development and operation of European electronic systems and classifying each system, or part thereof, as:
  - (a) a common component: a component of the European electronic systems developed at Union level, which is available for all Member States or identified as common by the Commission for reasons of efficiency, security and rationalisation;
  - (b) a national component: a component of the European electronic systems developed at national level, which is available in the Member State that created such a component or contributed to its joint creation;
  - (c) or a combination of both.
2. The Multi-Annual Strategic Plan for Taxation shall also include innovation and pilot actions as well as the supporting methodologies and tools related to the European electronic systems.

3. Member States shall notify the Commission of the completion of each task allocated to them under the Multi-Annual Strategic Plan for Taxation referred to in paragraph 1. They shall also regularly report to the Commission on progress with their tasks.
4. No later than 31 March of each year, the Member States shall submit to the Commission annual progress reports on the implementation of the Multi-Annual Strategic Plan for Taxation referred to in paragraph 1 covering the period 1 January to 31 December of the preceding year. Those annual reports shall be based on a pre-established format.
5. No later than 31 October of each year, the Commission shall, on the basis of the annual reports referred to in paragraph 4, establish a consolidated report assessing the progress made by Member States and the Commission in the implementation of the plan referred to in paragraph 1 and make that report public.

## *CHAPTER V*

### *PROGRAMMING, MONITORING, EVALUATION AND CONTROL*

#### *Article 13*

##### *Work programme*

1. The Programme shall be implemented by multiannual work programmes referred to in Article 108 of the Financial Regulation.
2. The multiannual work programmes shall be adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 18(2).

#### *Article 14*

##### *Monitoring and reporting*

1. Indicators to report on progress of the Programme towards the achievement of the specific objectives set out in Article 3 are set in Annex 2.
2. To ensure effective assessment of progress of the Programme towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 17 to amend Annex 2 to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
3. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

## *Article 15*

### *Evaluation*

1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.
2. The interim evaluation of the Programme shall be performed once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of the programme implementation.
3. At the end of the implementation of the Programme, but no later than four years after the end of the period specified in Article 1, a final evaluation of the Programme shall be carried out by the Commission.
4. The Commission shall communicate the conclusions of the evaluations, accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

## *Article 16*

### *Audits and investigations*

Where a third country participates in the programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorizing officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

## *CHAPTER VI*

### *EXERCISE OF THE DELEGATION AND COMMITTEE PROCEDURE*

## *Article 17*

### *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 14(2) shall be conferred on the Commission until 31 December 2028.
3. The delegation of power referred to in Article 14(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 14(2) shall enter into force if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 18*

##### *Committee procedure*

1. The Commission shall be assisted by a committee referred to as the "Fiscalis Programme Committee". That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

#### *CHAPTER VII*

##### *TRANSITIONAL AND FINAL PROVISIONS*

#### *Article 19*

##### *Information, communication and publicity*

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

#### *Article 20*

##### *Repeal*

Regulation (EU) No 1286/2013 is repealed with effect from 1 January 2021.

## *Article 21*

### *Transitional provisions*

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation (EU) No 1286/2013, which shall continue to apply to the actions concerned until their closure.
2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under its predecessor, the Regulation (EU) No 1286/2013.
3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

## *Article 22*

### *Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned (*programme cluster*)
- 1.3. Nature of the proposal/initiative
- 1.4. Grounds for the proposal/initiative
- 1.5. Duration and financial impact
- 1.6. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on appropriations of an administrative nature*
  - 3.2.3. *Third-party contributions*
- 3.3. Estimated impact on revenue

## 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council establishing the Fiscalis programme for cooperation in the field of taxation

### 1.2. Policy area(s) concerned (*Programme cluster*)

Single market, Innovation and Digital

### 1.3. The proposal/initiative relates to:

a new action

a new action following a pilot project/preparatory action<sup>1</sup>

the extension of an existing action

a merger or redirection of one or more actions towards another/a new action

### 1.4. Grounds for the proposal/initiative

#### 1.4.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The programme will be implemented through an implementing act adopting a multi-annual work programme. The adoption is planned for Q1 2021 after the consultation of the Fiscalis Committee. The execution of the multi-annual work programme will be carried out through the conclusion of grant agreements with the beneficiaries and the conclusion of public procurements contracts with the service providers starting in Q2 2021 at the latest.

#### 1.4.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

The Union and the national tax authorities still suffer from a problem of insufficient capacity and insufficient cooperation – both within the EU and with third countries – to carry out effectively and efficiently their missions. They need to provide quick and joint responses to emerging problems such as tax fraud, tax evasion and tax avoidance, digitalisation and new business models, while at the same time preventing unnecessary administrative burden for citizens and businesses in cross-border transactions. These trends raise continuously new challenges for the functioning and performance of national tax authorities. They call for better and innovative ways to carry out their core task i.e. collecting taxes which directly feed the national and indirectly the Union budget. The Commission therefore proposes a Fiscalis programme comprising means and a budget which will support tax policy and tax authorities through administrative and IT capacity building activities and operational cooperation.

<sup>1</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

#### Expected generated Union added value (ex-post)

The vast majority of the proposed budget will be spent on IT capacity building activities. The backbone of the tax cooperation is a highly secured dedicated communication network that ensures that every national administration only needs to connect once to this common infrastructure to be able to exchange any kind of information. If such an infrastructure were not available Member States would have to link 27 times to the national systems of each of the other Member States.

#### 1.4.3. *Lessons learned from similar experiences in the past*

This proposal takes into account the recommendations of the final evaluation of Fiscalis 2013 as well as the preliminary results of the ongoing mid-term evaluation of Fiscalis 2020. They indicate that the programme is providing strong EU added value, building trust and fostering strong cooperation between Member States and also with other participating countries (candidate countries and potential candidates). The programme also eases the implementation of EU legislation, while allowing efficiency gains (through pooling of resources) especially in the area of electronic systems (where EU intervention is resulting in economies of scale and reduced development costs) and training modules (where EU intervention is reported as saving time and money for some authorities). Participants have also reported a high and growing interest in joint actions (particularly working visits, seminars and workshops) as an effective tool that contributes to cooperation and to improve the exchange of information between tax authorities. The introduction of Expert Teams is seen as a powerful vehicle to drive a deeper cooperation (on a regional or thematic basis) given its specific funding arrangements and operational setup. Some participants pointed out the possibility of increasing the current distribution of funds in favour of this administrative capacity building activity.

#### 1.4.4. *Compatibility and possible synergy with other appropriate instruments*

This proposal is consistent with other proposed EU action programmes and funds that pursue similar objectives in related fields:

- The Customs programme , that supports cooperation in the field of customs;
- The EU anti-fraud programme that combats fraud for the protection of Union financial interests in accordance with Article 325 TFEU;
- The Single Market Programme , which supports EU actions for achieving a better functioning of the single market;
- The Reform Support Programme that helps specific EU countries to build more effective institutions, stronger governance frameworks and efficient public authorities.

## 1.5. Duration and financial impact

### limited duration

- in effect from 01/01/2021 to 31/12/2027
- Financial impact from 2021 to 2027 for commitment appropriations and from 2021 to 2030 for payment appropriations.

### unlimited duration

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

## 1.6. Management mode(s) planned<sup>2</sup>

### Direct management by the Commission

- by its departments, including by its staff in the Union delegations;
- by the executive agencies

### Shared management with the Member States

### Indirect management by entrusting budget implementation tasks to:

- third countries or the bodies they have designated;
  - international organisations and their agencies (to be specified);
  - the EIB and the European Investment Fund;
  - bodies referred to in Articles 70 and 71 of the Financial Regulation;
  - public law bodies;
  - bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
  - bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
  - persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

### Comments

N.A.

<sup>2</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<https://myintracom.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

The impact of the proposed Fiscalis programme will be assessed through interim and final evaluations as well as by monitoring on an ongoing basis a set of high-level key performance indicators.

The results and outputs of the programme will be regularly subject to assessment through a comprehensive monitoring system, based on defined indicators in view of accountability for value for money. Data for measuring performance will be drawn from various data collection tools including action follow-up forms, event assessment forms and regular polls of tax officials.

Since the programme plays a supporting role, helping participating country authorities to share information and boost their capacity, the monitoring system focuses on following the progress of the programme's activities in terms of indicators at outputs levels. Whenever possible, it also follows indicators in areas related to the programme's high-level objectives.

The Commission will, on a yearly basis, issue a programme progress report containing a summary of performance towards the programme objectives and the related output and result indicators.

### **2.2. Management and control system(s)**

#### **2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed***

The programme will be implemented in direct management mode given the nature of the programme's activities, its focus on tax authorities as beneficiaries and the national sovereignty of Member States as regards taxation. This management mode provides for the most efficient allocation of financial resources and greatest impact possible. Indeed, it offers both flexibility and steering power to the Commission for allocating yearly through its financing decision the appropriate funds according to priorities agreed with Member States through comitology, including emerging needs.

The programme will be implemented mostly via procurement and, to a lesser extent, via grant agreements established with national authorities.

For procurement, the payment modalities are fully aligned with corporate standards (no pre-financing; all payments are linked to the acceptance of pre-defined deliverables).

For grants, pre-financing up to 90% is envisaged. Final payment/recoveries for grants are done on the basis of financial reports combined with ex-post on-the-spot audits.

The control system for procurement is based on a thorough ex-ante verification of 100% of all transactions therefore excluding any error at payment time.

For grants, the control strategy has a dual approach :

(1) the national authorities's financial reports are closed after a quick desk review followed by the final payment/recovery order (therefore reducing the payment delays). These payment/recovery orders remain verified by the usual ex-ante controls embedded in the financial circuits (ex-ante verification of 100% of the transactions).

(2) the above controls are underpinned by ex-post on-the-spot audits in the Member States. DG TAXUD targets on-the-spot audit missions in 3 to 5 Member States per year with the intention to cover the majority of the participating countries before the end of the programme period.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

The risks associated to the financial transactions implementing the programme are limited.

(1) For procurement, the bulk of transactions (mostly linked to developing and operating electronic systems) are implemented using existing framework contracts and/or via co-delegation to other Commission services.

The overall internal control system in place at DG TAXUD (based upon thorough ex-ante verification of 100% of the related transactions), allowed keeping the error rates in the previous programme well below the materiality threshold (i.e. at an estimated level of 0,5%). This control system will continue to be used and applied for all transactions under the new programme thus ensuring error rates well below the materiality threshold.

(2) For grants, the transactions are equally of low risk level, in particular since :

- the beneficiaries are ' tax authorities of Member States and candidate countries and potential candidates– in such case there are no calls for proposals;
- expenditure is mostly linked to numerous actions with relatively small amounts involved for each action (mainly reimbursements of travel and subsistence expenditure);
- obligatory use of ART2 (the electronic system for monitoring the expenditure) for recording the actions and compiling financial reports - this system embeds certain controls;
- all projects and actions under the programme are ex-ante approved by DG TAXUD, the controls related to the selection and contracting phases ensure the legality and regularity of the grants commitments;
- the analysis of the most common errors detected during past ex-post verifications or ex-post on-the-spot audits confirm that the related financial transactions are of low risk.

Under the former programme, the error rate for the part implemented via grants was also consistently below the materiality threshold (i.e. around 1%). This control system will continue to be applied thus ensuring error rates well below the materiality threshold.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The total annual cost of controls under the former programme has been consistently around 1,5% (cost of all controls (procurement and grants) over payments made throughout the year) and is considered cost-effective.

The risk of error, as indicated above, is limited considering the nature and implementation method of the related financial transactions. Furthermore, the global internal control system, based on thorough ex-ante verifications, aims to remove all potential errors prior to the payment/closure.

The ex-post on-the-spot controls for grants further reduce the potential risk of error at payment/closure due to their strong deterring effect.

The applied control strategy has proven to be effective and efficient under the former programme and the cost of control has shown to be limited.

Considering that the same control systems will be used for the new programme, the anticipated cost of controls and expected level of risk of error at payment/closure under the new programme will be similar.

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

DG TAXUD's anti-fraud strategy (AFS) focusses on developing a strong anti-fraud culture within the DG through awareness raising activities on potential fraud risks and ethical behaviour among DG TAXUD staff. The strategy furthermore addresses an active cooperation with OLAF and the integration of fraud aspects into the Strategic Planning and Programming (SPP) cycle of the DG.

Considering that the programme will be implemented (mostly) through procurement, objective 3 of DG TAXUD's AFS (i.e. "Raising awareness on possible conflict of interest in dealing with external stakeholders such as lobbyists, tenderers, contractors") with focus on 1) maintaining records of contacts with lobbyists, 2) centralised management of procurement procedures and contacts with tenderers, 3) dedicated training on contacts with lobbyists, will be particularly applicable to the implementation of the programme. The obligatory consultation of the Early Detection and Exclusion System prior to awarding contracts (and any financial transaction) will further contain any potential fraud and irregularity.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed

| Heading of multiannual financial framework | Budget line  | Type of expenditure          | Contribution                     |                                       |                      |  |
|--|--|------------------------------|----------------------------------|---------------------------------------|----------------------|--|
|  | Number   | Diff./Non-diff. <sup>1</sup> | from EFTA countries <sup>2</sup> | from candidate countries <sup>3</sup> | from third countries | within the meaning of Article [21(2)(b)] of the Financial Regulation |
| 1  | 03.01 Single Market – Administrative line<br>03.04 Single Market – Cooperation in the field of taxation (FISCALIS) | Diff.                        | NO                               | YES                                   | YES                  | NO   |

<sup>1</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>2</sup> EFTA: European Free Trade Association.

<sup>3</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

| Heading of multiannual financial framework  |   | 1    | 'Single Market, Innovation and Digital' |               |               |               |               |               |               |               |                |  |
|---|---|------|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|--|
|   |   |      | 2021                                    | 2022          | 2023          | 2024          | 2025          | 2026          | 2027          | Post 2027     | TOTAL          |  |
| Operational appropriations (split according to the budget lines listed under 3.1)                   | Commitments   | (1)  | 33.202                                  | 34.036        | 35.326        | 37.122        | 39.494        | 42.540        | 46.180        |               | <b>267.900</b> |  |
|   | Payments  | (2)  | 7.957                                   | 24.607        | 31.141        | 33.479        | 35.699        | 38.342        | 41.504        | 55.171        | <b>267.900</b> |  |
| Appropriations of an administrative nature financed from the envelope of the programme <sup>1</sup> | Commitments = Payments  | (3)  | 0.300                                   | 0.300         | 0.300         | 0.300         | 0.300         | 0.300         | 0.300         |               | <b>2.100</b>   |  |
|   | <b>TOTAL appropriations for the envelope of the programme</b> | =1+3 | <b>33.502</b>                           | <b>34.336</b> | <b>35.626</b> | <b>37.422</b> | <b>39.794</b> | <b>42.840</b> | <b>46.480</b> |               | <b>270.000</b> |  |
|   | Payments  | =2+3 | <b>8.257</b>                            | <b>24.907</b> | <b>31.441</b> | <b>33.779</b> | <b>35.999</b> | <b>38.642</b> | <b>41.804</b> | <b>55.171</b> | <b>270.000</b> |  |

<sup>1</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

|   |          |                                     |
|---|----------|-------------------------------------|
| <b>Heading of multiannual financial framework</b> | <b>7</b> | <b>'Administrative expenditure'</b> |
|---|----------|-------------------------------------|

EUR million (to three decimal places)

|  | 2021                                 | 2022         | 2023         | 2024         | 2025         | 2026         | 2027         | <i>Post 2027</i> | TOTAL         |
|--|--------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|------------------|---------------|
| Human resources  | 6.556                                | 6.556        | 6.556        | 6.556        | 6.556        | 6.556        | 6.556        |                  | <b>45.892</b> |
| Other administrative expenditure   | 0.303                                | 0.303        | 0.303        | 0.303        | 0.303        | 0.303        | 0.303        |                  | <b>2.121</b>  |
| <b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b> | <b>6.859</b>                         | <b>6.859</b> | <b>6.859</b> | <b>6.859</b> | <b>6.859</b> | <b>6.859</b> | <b>6.859</b> |                  | <b>48.013</b> |
|  | (Total commitments = Total payments) |              |              |              |              |              |              |                  |               |

EUR million (to three decimal places)

|  | 2021          | 2022          | 2023          | 2024          | 2025          | 2026          | 2027          | <i>Post 2027</i> | TOTAL          |
|--|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|----------------|
| <b>TOTAL appropriations across HEADINGS of the multiannual financial framework</b> | <b>40.361</b> | <b>41.195</b> | <b>42.485</b> | <b>44.281</b> | <b>46.653</b> | <b>49.699</b> | <b>53.339</b> |                  | <b>318.013</b> |
| Commitments  | <b>15.116</b> | <b>31.766</b> | <b>38.300</b> | <b>40.638</b> | <b>42.858</b> | <b>45.501</b> | <b>48.663</b> | <b>55.171</b>    | <b>318.013</b> |
| Payments   |               |               |               |               |               |               |               |                  |                |

### 3.2.2. Summary of estimated impact on appropriations of an administrative nature

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

| Years | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | TOTAL |
|-------|------|------|------|------|------|------|------|-------|
|-------|------|------|------|------|------|------|------|-------|

| <b>HEADING 7<br/>of the multiannual<br/>financial framework</b>          |              |              |              |              |              |              |              |               |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| Human resources  | 6.556        | 6.556        | 6.556        | 6.556        | 6.556        | 6.556        | 6.556        | <b>45.892</b> |
| Other administrative expenditure   | 0.303        | 0.303        | 0.303        | 0.303        | 0.303        | 0.303        | 0.303        | <b>2.121</b>  |
| <b>Subtotal HEADING 7<br/>of the multiannual<br/>financial framework</b> | <b>6.859</b> | <b>48.013</b> |

| <b>Outside HEADING 7<sup>1</sup><br/>of the multiannual<br/>financial framework</b>  |              |              |              |              |              |              |              |              |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Human resources  |              |              |              |              |              |              |              |              |
| Other expenditure of an administrative nature  | 0.300        | 0.300        | 0.300        | 0.300        | 0.300        | 0.300        | 0.300        | <b>2.100</b> |
| <b>Subtotal<br/>outside HEADING 7<br/>of the multiannual<br/>financial framework</b> | <b>0.300</b> | <b>2.100</b> |

|              |              |              |              |              |              |              |              |               |
|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| <b>TOTAL</b> | <b>7.159</b> | <b>50.113</b> |
|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

<sup>1</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

### 3.2.2.1. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

| Years  | 2021              | 2022      | 2023      | 2024      | 2025      | 2026      | 2027      |
|--|-------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| <b>• Establishment plan posts (officials and temporary staff)</b>                                  |                   |           |           |           |           |           |           |
| Headquarters and Commission's Representation Offices   | 42                | 42        | 42        | 42        | 42        | 42        | 42        |
| Delegations  |                   |           |           |           |           |           |           |
| Research   |                   |           |           |           |           |           |           |
| <b>• External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED<sup>2</sup></b> |                   |           |           |           |           |           |           |
| Heading 7  |                   |           |           |           |           |           |           |
| Financed from HEADING 7 of the multiannual financial framework                                     | - at Headquarters | 7         | 7         | 7         | 7         | 7         | 7         |
|  | - in Delegations  |           |           |           |           |           |           |
| Financed from the envelope of the programme <sup>3</sup>   | - at Headquarters |           |           |           |           |           |           |
|  | - in Delegations  |           |           |           |           |           |           |
| Research   |                   |           |           |           |           |           |           |
| Other (specify)  |                   |           |           |           |           |           |           |
| <b>TOTAL</b>   | <b>49</b>         | <b>49</b> | <b>49</b> | <b>49</b> | <b>49</b> | <b>49</b> | <b>49</b> |

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

|                               |  |
|-------------------------------|--|
| Officials and temporary staff | Figures include both staff working on the programme's direct management and implementation and also staff working on policy areas supported/funded by the programme. |
| External staff                | Figures include both staff working on the programme's direct management and implementation and also staff working on policy areas supported/funded by the programme. |

<sup>2</sup> AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

<sup>3</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

### 3.2.3. Third-party contributions

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

| Years                            | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | TOTAL |
|----------------------------------|------|------|------|------|------|------|------|-------|
| Specify the co-financing body    |      |      |      |      |      |      |      |       |
| TOTAL appropriations co-financed |      |      |      |      |      |      |      |       |

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on other revenue

please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

| Budget revenue line: | Impact of the proposal/initiative <sup>1</sup> |      |      |      |      |      |      |
|----------------------|--|------|------|------|------|------|------|
|                      | 2021   | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
| Article .....        |  |      |      |      |      |      |      |

For assigned revenue, specify the budget expenditure line(s) affected.

n.a.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

The impact of the programme may indirectly affect the revenue of the EU as improved and more efficient national tax authorities are expected to lead, amongst others, to more VAT being collected. Such effect is however not quantifiable.

<sup>1</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of collection costs.