



Brussels, 23 January 2019  
(OR. en)

5495/19

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

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CODEC 137  
FISC 48  
ECOFIN 42  
CADREFIN 27  
PE 12

## INFORMATION NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the 'Fiscalis' programme for cooperation in the field of taxation - Outcome of the European Parliament's proceedings (Strasbourg, 14 to 17 January 2019)

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## I. INTRODUCTION

The rapporteur, Sven GIEGOLD (Greens/EFA, DE), presented a report consisting of one amendment (amendment 1) to the proposal for a Regulation on behalf of the Committee on Economic and Monetary Affairs.

In addition, the S&D tabled one amendment (amendment 2) and the Greens/EFA tabled an identical amendment (amendment 3).

## II. VOTE

When it voted on 17 January 2019, the plenary adopted two amendments (amendment 1 and amendment 2, identical to amendment 3) to the proposal for a Regulation. The amendments adopted are set out in the annex.

At the end of the vote, the proposal was referred back to the Committee, pursuant to Rule 59(4)(4) of the European Parliament's Rules of Procedure, thereby not bringing the Parliament's first reading to a close and opening the negotiations with the Council.

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**Establishing the "Fiscalis" programme for cooperation in the field of taxation  
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**Amendments adopted by the European Parliament on 17 January 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the 'Fiscalis' programme for cooperation in the field of taxation (COM(2018)0443 – C8-0260/2018 – 2018/0233(COD))<sup>1</sup>**

**(Ordinary legislative procedure: first reading)**

**[Amendment 1, unless otherwise indicated]**

**AMENDMENTS BY THE EUROPEAN PARLIAMENT\***

to the Commission proposal

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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**

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,

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<sup>1</sup> The matter was referred back for interinstitutional negotiations to the committee responsible, pursuant to Rule 59(4), fourth subparagraph (A8-0421/2018).

\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

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

Having regard to the opinion of the European Economic and Social Committee<sup>2</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>3</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 can *often* not be tackled *effectively* if Member States do not look beyond the borders of their administrative territories *and* 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, *whether among themselves or with third countries with which the Union cooperates closely in the field of taxation*. 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').
  - (2 a) *The Programme should enable Member States' capacity to combat tax fraud, corruption, tax evasion and aggressive tax planning to be strengthened, including by means of technical assistance for human resources training and the development of administrative structures. Such assistance should be provided in a transparent manner.*

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<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</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).

- (3) In providing a framework for actions which supports the single market, fosters *fair competition in the* Union 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, *aggressive tax planning and double non-taxation*; preventing and reducing unnecessary administrative burden for citizens and businesses in cross-border transactions; *supporting fairer and more efficient tax systems*; achieving the full potential of the single market and fostering *fair competition in the* Union *as well as* 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>4</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 *particular least developed countries*, in accordance with the conditions laid down in specific agreements between the Union and those countries covering their participation to any Union programme.
- (5 a) *The European Parliament has laid down its priorities. The current lack of financial resources hinders the achievement of the objectives set by the European Parliament for the post-2020 multiannual financial framework [2017/2052(INI)]. More effective cooperation in tax matters could enable a more effective collection of the necessary resources for the implementation of the future multiannual financial framework.*
- (6) Regulation (EU, Euratom) **2018/1046** of the European Parliament and of the Council<sup>5</sup> (the ‘Financial Regulation’) applies to this Programme. It lays down rules on the implementation

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<sup>4</sup> OJ C 373, 20.12.2013, p. 1.

<sup>5</sup> *Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending*

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. ***However, actions should aim at addressing priority topics to protect the financial and economic interests of the Union and its Member States.*** 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 ***and the resulting increased risk of tax fraud, tax evasion and aggressive tax planning***, 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. ***Provided priority topics have been fully funded, specific actions involving least developed countries, in particular regarding the automatic sharing of information, should also be encouraged under the Programme where appropriate.***
- (9) Considering the importance of globalisation and ***the importance of combating tax fraud, tax evasion and aggressive tax planning***, the Programme should continue to provide the possibility of involving external experts within the meaning of Article 238 of the Financial Regulation. ***The selection of experts should be transparent and be based on their skills,***

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***Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).***

*experience and knowledge relevant to the specific action as well as their ability to contribute to that action. It should be ensured that those experts are impartial and that there is no possible conflict of interest with their professional role. Balanced representation of all relevant stakeholders should be ensured.*

**(9 a) *In view of the recent adoption of Council Directives 2014/107/EU<sup>6</sup>; 2015/2376/EU<sup>7</sup>; 2016/881/EU<sup>8</sup>; 2016/2258/EU<sup>9</sup>; 2018/822/EU<sup>10</sup> and the ongoing negotiations on a Common Consolidated Corporate Tax Base (CCCTB), the Programme should aim to train staff at tax administrations to ensure the effective implementation of those directives.***

**(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 EU Budget Review'<sup>11</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.

**(10 a) *For the sake of cost-effectiveness, the Fiscalis Programme should exploit possible synergies with other Union measures in related fields, such as the Customs Programme, the EU Anti-Fraud Programme, the Single Market Programme and the Reform Support Programme.***

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<sup>6</sup> ***Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.12.2014, p. 1).***

<sup>7</sup> ***Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 332, 18.12.2015, p. 1).***

<sup>8</sup> ***Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 146, 3.6.2016, p. 8).***

<sup>9</sup> ***Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities (OJ L 342, 16.12.2016, p. 1).***

<sup>10</sup> ***Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (OJ L 139, 5.6.2018, p. 1).***

<sup>11</sup> COM (2010)0700.

- (10 b) *Individual national anti-fraud initiatives could potentially shift the fraud to other, often neighbouring, Member States, and create a disproportionate administrative burden on compliant businesses as well as a lack of legal certainty when trading internationally. It is therefore crucial that the Commission aligns national anti-fraud measures through coordination of national best practices at Union level.*
- (11) Information Technology (IT) capacity building actions are set to attract *a considerable share* 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. *There should be smooth interoperability among the common and national components of the European electronic systems and synergies with other electronic systems of relevant Union programmes.*
- (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 *but it should not, in any circumstance, result in a loss of information or transparency to taxpayers. Multiannual work programmes should reflect all relevant information produced in the context of annual reports or mapping exercises as referred to in this Regulation. Those annual reports should be made publicly available in order to inform taxpayers about best practices, lessons learnt, challenges and remaining obstacles identified within the Programme.*
- (14) In order to *supplement* this Regulation, *the power to adopt acts* in accordance with *Article 290 of the Treaty on the Functioning of the European Union (TFEU)* *should be delegated to the Commission in respect of the adoption of work programmes.*

- (15) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement of 13 April 2016 on Better Law-Making<sup>12</sup>, there is a need to evaluate **the Programme** on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States, **thereby also taking into consideration REFIT**. These requirements, where appropriate, **should** include measurable indicators, as a basis for evaluating the effects of this Regulation on the ground. **The results of that monitoring should be object of an annual consolidated report, produced by the Commission, based on input provided by the Member States. It should contain a mapping of remaining obstacles in the Member States in realizing the Programme objectives in Article 3 and addressing the priority topics in Article 7(2a) as well as suggestions for best practices. Additionally, the Commission should produce an interim and a final evaluation of the Programme. Both the annual reports and the evaluation reports should be made publicly accessible on a dedicated webpage.**
- (15 a) **The Commission should convene a biannual seminar including two representatives of beneficiary Member States to discuss issues and suggest potential improvements related to the themes of the Programme, including the exchange of information between tax administrations. The participants in the seminar shall be, respectively a representative of a decision-making body of tax administrations, a representative of a trade union of staff working at tax administrations, and a representative of the European Parliament and of the Council.**
- (16) In order to respond appropriately to changes in tax policy priorities, the power to adopt acts in accordance with Article 290 **TFEU** 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

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<sup>12</sup> Interinstitutional Agreement of 13 April 2016 between the European Parliament, the Council of the European Union and the European Commission on Better Law-making (OJ L 123, 12.5.2016, p. 1).

experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (17) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>13</sup>, and Council Regulations (Euratom, EC) No 2988/95<sup>14</sup>, (Euratom, EC) No 2185/96<sup>15</sup> and (EU) 2017/1939<sup>16</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>17</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.

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<sup>13</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>14</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>15</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 L 292, 15.11.96, p. 2).

<sup>16</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 L 283, 31.10.2017, p.1).

<sup>17</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).

- (18) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 *TFEU* 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. ***The coverage of travel expenses should be a priority, so that the participation of national experts in joint actions is ensured.***
- (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 (the '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>18</sup>;
  - (b) excise duties on alcohol provided for in Council Directive 92/83/EEC<sup>19</sup>;
  - (c) excise duties on tobacco products provided for in Council Directive 2011/64/EU<sup>20</sup>;

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<sup>18</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>19</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>20</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).

- (d) taxes on energy products and electricity provided for in Council Directive 2003/96/EC<sup>21</sup>;
- (e) other taxes and duties referred to in Article 2(1)(a) of Council Directive 2010/24/EU<sup>22</sup>, **including corporate income taxes**, 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;
- (4 a) 'least developed country' means a low-income third country confronted with severe structural impediments to sustainable development as defined by the United Nations.**

### Article 3

#### Programme objectives

1. The Programme has the general objectives of supporting tax authorities and taxation to enhance the functioning of the single market, of fostering **fair competition in the** Union, of protecting the financial and economic interests of the Union and its Member States, **including from tax fraud, tax evasion and aggressive tax planning, and of improving tax collection.**
2. The Programme has the specific objectives of supporting tax policy **and its proper implementation**, of **fostering** tax cooperation, **the exchange of tax information** and administrative capacity building, including human competency and the development and operation of the European electronic systems, **as well as the progressive modernisation of reporting, auditing and software tools to be applied uniformly across Member States. The**

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<sup>21</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).

<sup>22</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).

*Programme shall also help tax administrations to facilitate and improve the implementation of the Union directives on taxation, and to train their staff in that regard.*

#### *Article 4*

##### *Budget*

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be **EUR 300 million in 2018 prices or EUR 339 million in current prices**.
2. The amount referred to in paragraph 1 may *inter alia* 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 **and other relevant written material**, 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 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 of and benefits for 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 the 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.

***Provided priority topics have been fully funded, least developed countries shall be encouraged to participate in the Programme in accordance with the principles of Policy Coherence for Development (PCD) and the conditions laid down in the specific agreements between such countries and the Union covering the participation of such countries in the Programme. Notwithstanding point c) of paragraph 1, the participation of least developed countries in the Programme shall be cost-free for them and shall focus on achieving international tax objectives, such as the automatic exchange of tax information. The specific agreement shall guarantee 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, ***including on-site inspections and joint audits; [Ams 2 and 3 ]***
  - (c) IT capacity building actions, in particular the development and operation of European electronic systems ***or actions to establish joint registers;***
  - (d) human competency and capacity building actions;
  - (e) support and other actions, including:
    - (1) studies ***and other relevant written material;***

- (2) innovation activities, in particular proof-of-concepts, pilots and prototyping initiatives;
- (3) jointly developed communication actions;
- (4) any other **relevant** 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 **relevant** actions referred to in points (a), (b) and (d) are presented in a non-exhaustive list in Annex 1.

**2 a. Actions referred to in paragraph 1 shall cover the following list of priority topics:**

- (a) closing loopholes in the effective implementation of Council Directive 2011/16/EU<sup>23</sup>, as amended;**
- (b) the effective exchange of information, including group requests, and the development of useable formats taking into account initiatives at international level;**
- (c) removing obstacles to cross-border cooperation;**
- (d) removing obstacles to accessibility to beneficial ownership information under Council Directive 2011/16/EU, as amended;**
- (e) combating cross-border VAT fraud;**
- (f) exchange of best practices on recovery of taxes, including taxes not paid according to the European Savings Tax Directive (EUSTD);**
- (g) implementation of unified national IT tools with the view to develop common interfaces to allow for the interconnection of national IT systems;**

- 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

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<sup>23</sup> **Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).**

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*

### *Participation of 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, ***and, where relevant,*** 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. ***The Commission shall assess, inter alia, the impartiality of those external experts, shall ensure that no conflict of interests exists with their professional responsibilities and shall decide on their participation on an ad-hoc basis, based on needs.***
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, ***following a transparent and balanced procedure,*** based on their skills, experience and knowledge relevant to the specific action, ***and their ability to contribute to that action. The Commission shall ensure a balanced representation of all relevant stakeholders. It shall clarify whether the external experts participate on their own behalf or on behalf of another organisation or economic***

*operator. The list of external experts shall be publicly available on the Commission's website.*

### *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;

*(e a) the coordination of nationally applied anti-fraud measures by identifying and informing on national best practices 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 *related to the entire Programme*.
4. No later than 31 March of each year, 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. *In the annual progress reports, Member States shall report on the obstacles in realising the Programme objectives as set out in Article 3 and addressing the priority topics referred to in Article 7(2a) and make suggestions for best practices.*
5. No later than 31 October of each year, the Commission shall, on the basis of the Member States' 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 *as well as the progress in achieving the Programme's objectives mentioned in Article 3 and the priority topics referred to in Article 7(2a). To assess the progress made, the Commission shall include in its consolidated annual report a mapping of remaining obstacles in the Member States in realising the Programme objectives as set out in Article 3 and addressing the priority topics referred to in Article 7(2a) and make suggestions for best practices. The Commission's consolidated annual report shall be made publicly available on a dedicated Commission webpage and shall serve as a basis for future multiannual work programmes referred to in Article 13 as well as for the evaluation reports referred to in Article 15.*

## 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 **delegated** acts. Those **delegated** acts shall be adopted in accordance with the procedure referred to in Article 17.

#### 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. **Evaluations shall be made publicly available by the Commission on a dedicated webpage.**
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 **three** years after the start of the programme implementation.
3. At the end of the implementation of the Programme, but no later than **one year** 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 **Articles 13(2) and 14(2)** shall be conferred on the Commission until 31 December 2028.
3. The delegation of power referred to in **Articles 13(2) and 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 of 13 April 2016 on Better Law-Making.
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 **Articles 13(2) and 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 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 ...

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX 1

### **Non-exhaustive list of possible forms of actions referred to in points (a), (b) and (d) of the first subparagraph of Article 7(2)**

Actions referred to in points (a), (b) and (d) of the first subparagraph of Article 7(2) may take the forms, among others, of:

- (a) As regards meetings and similar ad-hoc events:
- Seminar and workshop, generally attended by all countries and at which presentations are made and participants engage in intensive discussion and activity on a particular subject;
  - Working visit, organised to enable officials to acquire or increase their expertise or knowledge as regards tax policy;
  - Presence in administrative offices and participation in administrative enquiries;
- (b) As regards structured collaboration:
- Project group, generally composed of a limited number of countries, operational during a limited period of time to pursue a predefined objective with a precisely defined outcome, including coordination or benchmarking;
  - Task force, namely structured forms of cooperation, with a non-permanent or permanent character, pooling expertise to perform tasks in specific domains or carry out operational activities, possibly with the support of online collaboration services, administrative assistance and infrastructure and equipment facilities;
  - Multilateral or simultaneous control, consisting in the coordinated checking of the tax situation of one or more related taxable persons organised by two or more countries, including at least two Member States, with common or complementary interests;
  - Joint audit, consisting in the joint checking of the tax situation of one or more related taxable persons by a single audit team composed of two or more countries, including at least two Member States, with common or complementary interests;
  - Any other form of administrative cooperation established by Directive 2011/16/EU, Regulation (EU) 904/2010, Regulation (EU) 389/2012 or Directive 2010/24/EU;
- (d) As regards human competency and capacity building actions:
- Common training or development of eLearning to support the necessary professional skills and knowledge relating to tax;

- Technical support, aimed at improving administrative procedures, enhancing administrative capacity and improving tax administrations' functioning and operations by initiating and sharing good practices.

## ANNEX 2

### **Indicators**

Specific objective: support tax policy, tax cooperation and administrative capacity building, including human competency and the development and operation of the European electronic systems.

#### **1. Capacity Building (administrative, human and IT capacity):**

1. Union Law and Policy Application and Implementation Index (Number of actions under the Programme organised in this area and recommendations issued following those actions)
2. Learning Index (Learning modules used; number of officials trained; quality score by participants)
3. Availability of European electronic systems (in time percentage terms)
4. Availability of the Common Communication Network (in time percentage terms)
5. IT simplified procedures for the national administrations and economic operators (number of registered economic operators, numbers of applications and number of consultations in the different electronic systems funded by the Programme)

#### **2. Knowledge sharing and networking:**

6. Collaboration Robustness Index (degree of networking generated, number of face-to-face meetings, number of on-line collaboration groups)
7. Best Practices and Guideline Index (number of actions under the Programme organised in this area; percentage of tax administrations that made use of a working practice/guideline developed with the support of the Programme)

#### **2a. Additional indicators:**

1. *Revenues collected in the fight against tax fraud, tax evasion and aggressive tax planning in the course of joint audits*
2. *Number of requests for administrative and judicial cooperation made, received and responded to for each Member State*