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NOTE

From:	Presidency
To:	Council
Subject:	Directive on administrative cooperation in the field of taxation (DAC9) - Political agreement

I. INTRODUCTION

1. Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union¹ (the Pillar Two Directive) broadly reflects, with certain adaptations required by EU law, the model rules, agreed at the G20/OECD Inclusive Framework on Base Erosion and Profit Shifting (‘BEPS’), on a reform of the international rules on the taxation of the profits of the largest multinational enterprises.

¹ OJ L 328, 22.12.2022, p. 1–58 ELI: <http://data.europa.eu/eli/dir/2022/2523/oj>.

2. Minimum effective taxation, which constitutes ‘Pillar Two’, is based on two main rules (‘GloBE rules’) – the income inclusion rule (IIR) and the undertaxed profit rule (UTPR) – which are intended to ensure that the profits made by multinational groups with a turnover of at least EUR 750 million are taxed at an effective rate of at least 15 %. The Pillar Two Directive is designed to ensure that large multinational enterprises groups (MNEs) pay a minimum level of tax on the income arising in each jurisdiction where they operate. Entities within the scope of the rules must calculate their effective tax rate for each jurisdiction where they operate and pay a top-up tax for the difference between their effective tax rate per jurisdiction and the 15% minimum tax rate. Article 44 of the Pillar Two Directive sets out an obligation to file the top-up tax information return (TTIR). TTIR is to be filed using a standardised template.
3. For this system to function effectively, it is also necessary to ensure that tax authorities receive and automatically exchange relevant tax information. For these purposes, the G20/OECD Inclusive Framework on BEPS has developed a standard template (GloBE Information Return or GIR) that the filing entities of large multinational enterprise groups should be required to use to fulfil their filing obligations. Accordingly, same as the Pillar Two rules, GIR should be transposed into EU law, to facilitate the exchange of information between the Member States.

4. Against this background, the proposal for a Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation ('DAC9') was issued by the European Commission on 28 October 2024².
5. The key objective of this legislative proposal is to put into operation the provisions of the Pillar Two Directive (Article 44 in particular), which foresees that the first reporting on top-up tax information from multinational enterprise groups and large-scale domestic groups will need to take place by 30 June 2026. This objective will be achieved by the following:
- a) setting out the standard form of the TTIR that the filing entities of the large multinational enterprise groups (that are in scope of the Pillar Two rules) would be requested to submit, and
 - b) supplementing Directive 2011/16/EU with provisions laying down a framework to facilitate the exchange of TTIR between the tax authorities of Member States.
6. DAC9, once adopted by the Council, would have to be rather quickly transposed into national law by all Member States, to avoid gaps in tax reporting. Therefore, the timeline for completion of these negotiations remains tight.
7. The opinion of the European Parliament on this legislative proposal was adopted on 12 February 2025.³ The opinion of the European Economic and Social Committee was adopted on 26 February 2025.

² Doc. ST 15004/24 + ADD1.

³ P10_TA(2025)0013 (see also doc. ST 5822/25).

II. STATE OF PLAY

8. The Polish Presidency has prioritised work on this file and has invited Member States to conclude the necessary preparatory work in time for the meeting of ECOFIN Council in March 2025. During the Polish Presidency term, four meetings of the Working Party on Tax Questions (WPTQ) took place (9 and 24 January, 17 February, and a WPTQ (High Level) meeting on 26 February 2025).
9. At the meeting of the Committee of the Permanent Representatives (Part 2) on 4 March 2025, all delegations could support the compromise text of the draft Directive, with the exception of the provisions that govern the method to be used for updating the standard form of the TTIR (Section IV of the Annex VII to Directive 2011/16/EU ('DAC')) to ensure that it remains aligned with the potential updates of the standardised GloBE Information Return (GIR) agreed by the G20/OECD Inclusive Framework on BEPS.
10. To address this remaining concern, following bilateral contacts, the Presidency made a number of further adjustments to the draft Directive to remove the empowerment for delegated acts (deletion of recital 18, deletion of Article 1(8), which contained amendments to Article 21 of DAC, and deletion of Article 1(11) and 1(12), which contained proposed texts of Articles 26a and 26b of DAC). The consequence of these amendments to the compromise text is that the standard form of the TTIR would be amended through a Council Directive (under the special legislative procedure). The latest Presidency compromise text, which reflects these amendments, is set out in doc. ST 6845/25.
11. The Presidency is of the view that this compromise text should now strike the right balance and that all delegations would lift the remaining reservations.

12. Furthermore, recognising the importance of confirming the commitment of all Member States that the standard form of the TTIR should remain in line with the standard template of GIR developed by the G20/OECD Inclusive Framework on BEPS, and that, for these purposes, quick legislative action would be needed, the Presidency suggests that the Council agrees on the statement set out in the Annex to this note. It is expected that the European Commission would be making a statement to the minutes of the Council meeting as well.

III. WAY FORWARD

13. Against this background, the Council is invited to:
- a) reach the political agreement on the text of the draft Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC9), as set out in doc. ST 6845/25, with a view to adopting the Directive, subject to legal-linguistic revision;
 - b) agree on the Council statement, set out in the Annex to this note, to be entered into the minutes of the Council meeting.
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COUNCIL STATEMENT

“The Council expresses the importance of alignment between the standard template for the Top-up tax information return (TTIR) and the standard template developed by the OECD/G20 inclusive framework on BEPS.

In order to ensure the commitment that those standard templates remain continuously in line, the European Commission is invited to present an appropriate legislative proposal to amend the Council Directive 2011/16/EU, in expeditive manner, once the OECD template is updated and the Council commits to acting as swiftly as possible to allow this alignment.”
