



EUROPEAN
COMMISSION

Brussels, 28.10.2024
COM(2024) 497 final

2024/0276 (CNS)

Proposal for a

COUNCIL DIRECTIVE

amending Directive 2011/16/EU on administrative cooperation in the field of taxation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Reasons for and objectives of the proposal

Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large sale domestic groups in the Union¹ (the Pillar Two Directive) implemented within the EU the agreement reached by the OECD/G20 Inclusive Framework (OECD/G20 IF) on Base Erosion and Profit Shifting (BEPS) on 8 December 2021. The Directive also follows closely the Global Anti-Base Erosion Rules (GloBE) Model Rules agreed by the OECD/G20 IF and published on 20 December 2021.

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. Any resulting top-up tax is generally charged in the jurisdiction of the ultimate parent entity (UPE) of the MNE. The rules also take into account the possibility that jurisdictions introduce their own qualified domestic top-up tax (QDTT), thereby preserving a jurisdiction's primary right of taxation over their own income. This qualified domestic top-up tax eliminates any top-up tax liability when it is treated as a QDTT Safe Harbour.

Article 44 of the Pillar Two Directive sets out the requirements on filing that entities within scope of the Directive must meet. It refers to a Top-up tax information return which must be filed using a standard template and includes certain specified data points. The Top-up tax information return is a risk-assessment tool: it contains the information a tax administration needs to perform an appropriate risk assessment and evaluate the entity's tax liability correctly.

The baseline scenario for filing, under Article 44(2) of the Pillar Two Directive, is that each constituent entity must file its Top-up tax information return in the Member State where it is located. This means that each constituent entity of the MNE would need to file with its tax administration very extensive reports that would also include high-level information from the MNE to which it belongs. However, Article 44(3) provides for a derogation from this local filing requirement to the extent that the UPE (or a designated filing entity) files this Top-up tax information return on behalf of the entire MNE. The only condition attached is that arrangements to exchange information between tax administrations must be in place between the jurisdictions involved (i.e. the jurisdiction of the UPE or the designated filing entity and the jurisdictions of the other constituent entities within the group in question). Under these arrangements the reporting is only done once for the whole MNE, and the constituent entities are then exempted from filing reports themselves locally. It is expected that general reporting by the entity designated for the entire group will be the main approach taken by MNEs to report the information required by the Pillar Two Directive.

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

The OECD has developed a standard template (GloBE Information Return or GIR)² to be used by the entities to fulfil their filing obligations. It contains the data points to be exchanged and explanatory guidance on its use and strikes a balance between providing tax administrations with the data they need to undertake adequate compliance checks, while limiting the cost of compliance for MNEs. This proposal transposes the GIR into EU law by making it the Top-up tax information return envisaged in Article 44 of the Pillar Two Directive.

This proposal also lays down a framework to facilitate the exchange of Top-up tax information return between Member States and enable MNEs to switch from local to central filing (i.e. filing by the UPE or a designated filing entity instead of filing by each constituent entity). This framework includes a “dissemination approach” to ensure that all relevant jurisdictions receive the information they need, based on their role in the MNE, in line with the OECD framework.

For the exchange of information with third country jurisdictions, Member States will have to sign appropriate international agreements with those jurisdictions. To ensure a smooth functioning of the information exchange, and in order to minimise administrative burden, the proposed rules applicable within the EU are fully compatible with the rules governing information exchange with third country jurisdictions.

Consistency with existing provisions in the policy area

This proposal is fully consistent with and operationalises a specific provision (Article 44) of the Pillar Two Directive.

Article 44(5) of the Pillar Two Directive lists the relevant information needed to file returns under the Pillar Two Directive. In particular, this concerns the identification of the constituent entities of an MNE, information on the corporate structure of the MNE and information which is necessary to compute the effective tax rate of constituent entities, the top-up tax and allocations. This has been further specified at the OECD/G20 IF level in the GIR, which this proposal incorporates into the body of EU law as a Top-up tax information return. This proposal does not involve processing of personal data within the meaning of Article 5 of Regulation (EU) 2016/679³ and Article 3 of Regulation (EU) 2018/1725⁴.

Secondly, this proposal lays down the rules for the exchange of Top-up tax information returns in line with the OECD framework.

² OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – GloBE Information Return (Pillar Two), OECD Publishing, Paris, <https://doi.org/10.1787/91a49ec3-en>.

³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88 ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39–98 ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

Consistency with other EU policies

This proposal is fully consistent with and contributes to the Commission's efforts to rationalise and simplify reporting requirements for business, with the aim of reducing this burden by 25%, without undermining the related policy objectives⁵. This is achieved by implementing through a Directive the exchange of information framework that underpins the Pillar Two Directive. This approach ensures the uniform and cross-cutting implementation across Member States of the rules on filing the Top-up tax information return. Moreover, it enables the MNE to fulfil its filing obligations only once (in the Member State of the UPE or of the designated filing entity) as opposed to having to file a Top-up tax information return in each Member States where constituent entities are located.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

Legal basis

Articles 113 and 115 of the Treaty on the Functioning of the European Union (TFEU) are the legal base for legislative initiatives in the field of administrative cooperation and direct taxation. Although no explicit reference to direct taxation is made, Article 115 can be used for the approximation of national laws and administrative practices that directly affect the establishment or functioning of the single market in the field of direct taxation.

As the proposed initiative amends the DAC, the legal base chosen remains the same. Indeed, the proposed rules, which aim to ensure a functioning framework with respect to the exchange of information between competent authorities for the purposes of the Pillar Two Directive, do not deviate from the subject matter of the DAC. In particular, the amendments envisaged will provide a clear and harmonised framework for filing and exchanging the Top-up tax return. The consistent application of these provisions can only be achieved through the approximation of national laws following a uniform approach, as prescribed in Articles 113 and 115 TFEU.

Subsidiarity (for non-exclusive competence)

The proposal fully observes the principle of subsidiarity as set out in Article 5 TFEU. It addresses administrative cooperation in the field of taxation. The proposal is twofold: firstly, it operationalises Article 44 of the Pillar Two Directive by providing uniform reporting requirements for the MNEs within the scope of the Directive; secondly, it expands the scope of the automatic exchange of information between the competent authorities of Member States to the reports filed by MNEs for the purposes of the Pillar Two Directive.

Legal certainty and clarity for MNEs and tax administrations can only be ensured by creating a single set of uniform rules applicable to all Member States. The existing rules for ensuring a global minimum level of taxation for MNEs and Large-scale domestic groups in the EU, which are enshrined in the Pillar Two Directive, would be severely undermined if Member States were to implement different reporting requirements nationally.

While a common approach to filing and information exchange for the purposes of Pillar Two has been developed at international level by means of the GloBE model rules, it is important to ensure that this is implemented in the EU in a coherent way. In the EU, which consists of highly integrated economies, there is a need for coordinated action, to improve the functioning of the single market and guarantee the proper functioning of the Pillar Two

⁵ COM(2023) 168 final.

Directive in ensuring the minimum effective taxation of business profits. This can only be achieved if the reporting obligations are also enacted centrally and transposed in a uniform fashion.

An EU initiative adds value, as compared to what a multitude of national implementation methods based on the legally non-binding GloBE model rules could achieve. There are three main advantages to an EU approach. Firstly, the legal framework for filing and exchanging information between tax authorities would be fully aligned across Member States, which would ease the reporting requirements for MNEs. Secondly, the exchange of information would be supported by a common IT infrastructure. Finally, a uniform implementation at EU level would give taxpayers legal certainty as to their filing obligations and the rules on the exchange of information between competent authorities.

Proportionality

The proposal implements the existing obligations under Article 44 of the Pillar Two Directive on the filing obligations of MNEs within the scope of the Directive, and extends the scope of the automatic exchange of information under the DAC to the reports filed by these MNEs. Considering that these MNEs have operations beyond the borders of a single Member State, EU common rules represent the minimum level of regulation necessary to ensure effective reporting.

The Directive, therefore, does not go beyond what is necessary to achieve its objectives and respects the principle of proportionality.

Choice of instrument

The proposal is for a Directive, which is the only available instrument available under the legal base of Articles 113 and 115 TFEU. Furthermore, this Directive represents the eighth amendment to the Directive on Administrative Cooperation (2011/16/EU), following Council Directives 2014/107/EU, 2015/2376/EU, 2016/881/EU, 2016/2258/EU, 2018/822/EU, 2021/514/EU and 2023/2226/EU.

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

Impact assessment

No impact assessment was carried out for this proposal.

The proposal operationalises Article 44 of the Pillar Two Directive in a manner which is fully consistent with and closely replicates what has been developed at global level. There are no other policy options to choose from. In addition, there is a political urgency to proceed with the proposal as the first reporting will need to take place by 30 June 2026, which is the deadline set by the Pillar Two Directive. This means that it is essential to have a swift adoption and implementation process of this initiative by the Member States.

Fundamental rights

This proposed Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union

4. BUDGETARY IMPLICATIONS

The cost for implementing this proposal is estimated to 3.3 million EUR for the period 2024-2027. It will be financed through redeployment of funds from the existing Fiscalis programme. For further details, see the legislative financial statement.

5. OTHER ELEMENTS

Detailed explanation of the specific provisions of the proposal

The Pillar Two Directive envisages local filing as the default rule for all constituent entities of the MNE within EU. However, it allows for central filing if two conditions are fulfilled: (1) an agreement to exchange information is in effect between the jurisdiction of the entity designated to file the Top-up tax information return on behalf of the group (i.e. the UPE or the designated filing entity) and the jurisdictions of the constituent entities; and (2) the UPE or the designated filing entity have indeed done so. This proposal lays down the exchange of information framework within the EU, therefore enabling central filing within the EU.

The proposal consists of two parts: (a) amendments to the text of the DAC; and (b) a new Annex.

- (a) Amendments to the text of the DAC – Framework for the exchange of Top-up tax information returns

The main change is the new Article 8ae, which sets out the framework for the exchange of Top-up tax information returns. The basic rules for filing the Top-up tax information return are set out in Article 44 of the Pillar Two Directive, which contains the information that are to be provided by the reporting entities of an MNE or LSDG so that Member States' tax administration can monitor whether the entities in scope are correctly applying the rules of the Pillar Two Directive.

Member States should take the necessary measures to enable the reporting entities of an MNE that is resident for tax purposes within the EU to file the Top-up tax information return within 15 months after the last day of the Reporting fiscal year, except for the first Reporting fiscal year, where the filing must be done no later than 18 months after the last day of the Reporting fiscal year. These deadlines are stipulated in Articles 44 (7) and 51 of the Pillar Two Directive. After the Top-up tax information return is filed with the Member State, the competent authority of that Member State sends appropriate parts of that report to the relevant competent authorities of relevant other Member States.

Competent authorities communicate the Top-up tax information return in the following manner (i.e. “dissemination approach”):

- the Member State of the UPE of the MNE receives the full Top-up tax information return;
- all Implementing Member States receive the full General section of the Top-up tax information return;
- qualified domestic top-up tax (QD TT)-only Member States, where constituent entities of the MNE are located, receive the relevant parts of the General section of the Top-up tax information return;
- Member States with taxing rights under the Pillar Two Directive receive specific Jurisdictional sections.

The relevant parts of the Top-up tax information return should be exchanged as soon as possible and, in any case, no later than 3 months after the filing deadline for that Reporting fiscal year. For the first year of application of the Pillar Two Directive (i.e. Reporting fiscal year 2024), the deadline for exchanging the information is six months after the filing deadline. Top-up tax information returns received after the filing deadline should also be exchanged as soon as they have been received and, in any case, no later than 3 months after they have been received.

The communication of information to competent authorities of other Member States will take place using the standard computerised form that will be developed by the Commission by means of an implementing act.

For Member States that have elected not to apply the qualified income inclusion rule (IIR) and the qualified under-taxed profit rule (UTPR) pursuant to Article 50(1) of the Pillar Two Directive, the application of the rules of this Directive is also postponed.

The new Article 9a provides a possibility for the competent authority to enquire about a Top-up tax information return that was notified to be filed centrally but which has not been exchanged. The competent authority of a Member State where the filing entity is resident for Pillar Two purposes can then verify if such a report has been filed and enquire about the expected date of filing if this has not already been done. If the Top-up tax information return has not been received within 3 months of the new expected filing date, local filing requirements may be imposed on the constituent entities of the MNE in order to obtain the Top-up tax information return since the conditions for central filing have not been met. On the other hand, no local filing may be imposed on the constituent entities before the abovementioned deadline has passed.

Furthermore, when the Top-up tax information return has been received and, after verification, the competent authority has reason to believe that it requires corrections, they should notify the competent authority of the sending Member State. The sending competent authority should, without delay, take appropriate measures to obtain the corrected Top-up tax information return from the filing entity and exchange it with the relevant competent authorities of Member States.

(b) Annex VII

The proposal adds a new Annex VII to the DAC. The first section defines certain terms used in the Annex and the relevant Articles in the DAC. The second section describes the filing rules that apply to the filing entity of the MNE. The third section includes the Top-up tax information return (which is fully in line with the GIR developed by the OECD) and aligns it with the Pillar Two Directive. The Top-up tax information return can be amended by the Commission by delegated act to reflect future update agreed at international level.

Proposal for a

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amending Directive 2011/16/EU on administrative cooperation in the field of taxation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 113 and 115 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 Parliament⁶,

Having regard to the opinion of the European Economic and Social Committee⁷,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Directive (EU) 2022/2523⁸ implemented the agreement reached by the OECD/G20 Inclusive Framework (OECD/G20 IF) on Base Erosion and Profit Shifting (BEPS) on 8 December 2021 and follows closely the OECD Model Rules agreed by the OECD/G20 IF on 14 December 2021. The Directive introduces a qualified income inclusion rule (IIR), a qualified undertaxed profit rule (UTPR) and also allows Member States to introduce their own qualified domestic top-up tax (QDTT).
- (2) Article 44 of the Council Directive (EU) 2022/2523 already sets the rules for filing Top-up tax information returns and outlines broadly the information categories to be reported by the multinational enterprises (MNEs) and large-scale domestic groups (LSDGs) covered by that Directive as the tax administrations need those Top-up tax information returns to perform an appropriate risk assessment, to evaluate the correctness of the tax liability and to monitor whether the MNEs and LSDGs correctly apply the rules set out in Council Directive (EU) 2022/2523.
- (3) It is therefore appropriate to amend Council Directive 2011/16/EU⁹ to set up new rules on automatic exchange of information to facilitate the exchange of information with respect to the Top-up tax information return and thereby provide the framework for the operational implementation of Article 44 of Council Directive (EU) 2022/2523. Those rules should be in line with the OECD/G20 IF agreement and Model Rules.

⁶ OJ C , , p. .

⁷ OJ C , , p. .

⁸ Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (OJ L 328, 22.12.2022, p. 1–58 ELI: <http://data.europa.eu/eli/dir/2022/2523/oj>).

⁹ 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, ELI: <http://data.europa.eu/eli/dir/2011/16/oj>).

- (4) Those rules should enable the central filing of the Top-up tax information return as opposed to the local filing of that return in each jurisdiction that is implementing the OECD/G20 IF agreement regarding the minimum taxation of MNE (implementing jurisdictions)¹⁰. Tax administrations of each relevant implementing jurisdiction should receive the necessary information under the standard information return.
- (5) Member States should take the necessary measures to require the reporting entities of an MNE that is located within the EU to file the Top-up tax information return within the deadlines provided for in Articles 44(7), and Article 51, of Council Directive (EU) 2022/2523.
- (6) When a Member State receives Top-up tax information returns from the reporting entities, they should communicate to the Member States and receiving jurisdictions, no later than three months after receipt, the relevant specific parts of those Top-up tax information returns in accordance with the dissemination approach approved by the OECD/G20 IF. In the first year of operation, the deadline for communication of the reports should be prolonged to six months after the receipt to accommodate any delays in the new system of exchange.
- (7) The Member State of the ultimate parent entity of the MNE should receive the full Top-up tax information return. All Member States that have implemented a qualified IIR or a qualified UTPR or both (Implementing Member States) should be provided with the full General section of the Top-up tax information return and QDTT-only Member States, where constituent entities of the MNE are located, should be provided with the relevant parts of the General section of the Top-up tax information return. Jurisdictional sections should be provided to the Member States with taxing rights under Council Directive (EU) 2022/2523.
- (8) The communication of information to competent authorities of other Member States should take place using the standard computerised form developed by the Commission by means of implementing acts.
- (9) The competent authorities should notify each other when there is reason to believe that the information included in a Top-up tax information return requires correcting. Such corrections should be exchanged without undue delay with all competent authorities for which such information is subject to exchange.
- (10) If a competent authority does not receive an exchange that was expected pursuant to a notification from an MNE, it should notify the competent authority that was expected to send the information of the missing exchange. The latter competent authority should without delay determine the reason for not exchanging the relevant information and should inform the competent authority that notified the missing exchange within one month, including the expected new date for the exchange. If the information is not received by the new date for exchange, it should be considered that the central filing has not taken place and the competent authority that notified the missing exchange should require the MNE's constituent entity to file the Top-up tax information return locally.
- (11) Article 50 of Council Directive (EU) 2022/2523 allows Member States in which very few groups are headquartered, to elect not to apply the IIR and UTPR for a limited

¹⁰ OECD (2021), Tax Challenges Arising from Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/782bac33-en>.

period of time. Such Member States should only start applying the rules on exchange of Top-up tax information returns when the period of election under Article 50 of Council Directive (EU) 2022/2523 ends.

- (12) Council Directive 2011/16/EU and Annex VII thereto, as amended by this Directive should be read together with Council Directive (EU) 2022/2523. The terms set out in Council Directive 2011/16/EU that are also found in Council Directive (EU) 2022/2523 should have the same meaning as that in the latter Directive. Furthermore, this Directive contains additional definitions necessary to reflect further international developments in the context of the exchange of information in the field of taxation.
- (13) LSDGs are included in reporting requirements in Council Directive (EU) 2022/2523, and they are required to present an overview of the structure as well as tax obligations for the whole LSDG, even if the overview is relevant only to the tax administration in the Member State where it is located. In order to minimise the administrative burden for the Member State concerned and maintain the equal treatment provided for in Council Directive (EU) 2022/2523, LSDGs should submit their reports using the template set out in the Annex to this Directive.
- (14) Article 44(5) of Council Directive (EU) 2022/2523 provides for the filing of the Top-up tax information return in a standard template. The OECD/G20 IF developed such a standard template¹¹, which contains the information a tax administration needs in order to perform an appropriate risk assessment and to evaluate the correctness of a constituent entity's top-up tax liability. The OECD/G20 IF also developed instructions¹² for the filing the standard template, which will be a useful source of interpretation for the MNEs to file the Top-up tax information return. It is therefore appropriate to set out, in a new Annex to Council Directive 2011/16/EU (Annex VII), a standard form, in line with that developed by the OECD/G20 IF, for the filing of the Top-up tax information return under Council Directive 2011/16/EU, as amended by this Directive and Council Directive (EU) 2022/2523.
- (15) The standard template for the Top-up tax information return provided for in this Directive ensures that the information and tax calculations that an MNE is required to file under the Top-up tax information return are sufficiently comprehensive to allow tax administrations to perform an appropriate risk assessment and to evaluate the correctness of a constituent entity's tax liability under Council Directive (EU) 2022/2523. At the same time, it is sought to avoid imposing unnecessary information collection, computation and reporting requirements on MNEs or exposing taxpayers to multiple, uncoordinated requests for further information in each implementing jurisdiction. A standardised information return does not preclude a tax administration from requesting necessary supporting information in follow-up requests to verify compliance with Council Directive (EU) 2022/2523 under their national law. However, jurisdictions should generally refrain from requiring the reporting of additional data points beyond the Top-up tax information return as part of their routine tax return and payment requirements and any such information should relate, for instance, to liability, timing and method of payment or identification of the taxpayer and contact details, rather than the calculation of a constituent entity's top-up tax liability.

¹¹ OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – GloBE Information Return (Pillar Two), OECD Publishing, Paris, <https://doi.org/10.1787/91a49ec3-en>.

¹² Ibid.

- (16) In order to ensure that the standard template for Top-up tax information return is kept in line with international developments, 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 to amend Section III of Annex VII to Council Directive 2011/16/EU, where necessary. It is of particular importance that the Commission carry 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 2016¹³. 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.
- (17) Since the objective of this Directive, namely to provide the framework for the operational implementation of Council Directive (EU) 2022/2523 on the basis of the common approach contained in the OECD Model Rules, cannot be sufficiently achieved by each Member State acting alone, because independent action by Member States would risk fragmenting the internal market, but can rather, given the scale of the global minimum tax reform and the critical importance of adopting solutions that function for the internal market as a whole, 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 Directive does not go beyond what is necessary in order to achieve that objective.
- (18) Directive 2011/16/EU should therefore be amended accordingly,
- HAS ADOPTED THIS DIRECTIVE:

Article 1

Council Directive 2011/16/EU is amended as follows:

- (1) in Article 3, point (9) is amended as follows:
- (a) the first subparagraph, is amended as follows:
 - (a) point (a) is replaced by the following:
 - ‘(a) for the purposes of Article 8(1) and Articles 8a to 8ae, the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals. For the purposes of Article 8(1), reference to available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State;’;
 - (b) point (c) is replaced by the following:
 - ‘(c) for the purposes of provisions of this Directive other than Article 8(1) and (3a) and Articles 8a to 8ae, the systematic communication

¹³ OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

of predefined information provided in the first subparagraph, points (a) and (b), of this point.’;

- (b) the second subparagraph is replaced by the following:

‘In the context of this Article, Articles 8(3a), 8(7a), 21(2) of and Annex IV to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I to this Directive. In the context of Article 21(5) and Article 25(3) and (4) of this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I, V or VI to this Directive. In the context of Article 8aa of and Annex III to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex III to this Directive. In the context of Article 8ac of and Annex V to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex V to this Directive. In the context of Article 8ad and Annex VI to this Directive, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex VI to this Directive. In the context of Articles 8ae, 9a of and Annex VII to this Directive any term shall have the same meaning as defined in Article 3, Article 9(2) point (a), Article 16 (4), (6), (8) and (11), Article 17(1), Article 21(5), Article 22(1), Article 24 (4) and (6), Article 26(2), Article 27 (3), (4), and (5), Article 28(1), Article 30(2), Article 31 (1), Article 32, Article 33(1), Article 35(1), Article 36(1), Article 37(1), Article 39(1), Article 42(1), Article 44(1), Article 47(1) and Article 49(3) of Council Directive (EU) 2022/2523*. Furthermore, any capitalised term shall have the meaning defined in Section I of Annex VII to this Directive.

* 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 Union (OL L 328, 22.12.2022, p.1, ELI: <http://data.europa.eu/eli/dir/2022/2523/oj>).’;

- (2) the following article is added:

‘Article 8ae

Exchange of information with respect to Top-up tax information returns under Article 44 of Council Directive (EU) 2022/2523

1. Each Member State shall take the necessary measures to require the ultimate parent entity or designated filing entity, as referred to in Article 44(3), points (a) and (b), of Council Directive (EU) 2022/2523, of an MNE group that is located in its territory in accordance with Article 4 of Council Directive (EU) 2022/2523, to file the Top-up tax information return using the standard template provided for in Section III of Annex VII to this Directive and within the deadlines set in Articles 44(7) and 51 of Council Directive (EU) 2022/2523.
2. The competent authority of a Member State which has received the Top-up tax information return pursuant to paragraph 1 shall communicate, by means of automatic exchange and in accordance with the following dissemination approach:
 - (a) The General section of the Top-up tax information return, to the Implementing Member State where the ultimate parent entity or constituent entities of the MNE are located;

- (b) The General section of the Top-up tax information return, with the exception of the high-level summary information in Section 1.4 thereof, to the qualified domestic top-up tax (QDTT)-only Member States:
 - (i) where constituent entities of the MNE are located;
 - (ii) where a joint venture or a member of a joint venture group of the MNE is located if the QDTT is imposed on joint ventures in the jurisdiction;
 - (iii) in situations where the QDTT is imposed on a stateless constituent entity of the MNE in the jurisdiction;
- (c) One or more Jurisdictional Sections of the Top-up tax information return, to Member States that have taxing rights under Council Directive (EU) 2022/2523 in respect of the Member States to which such Jurisdictional Sections relate.

Notwithstanding the first subparagraph, UTPR jurisdictions with a UTPR percentage of zero shall only be provided with the portion of the Top-up tax information return that contains information on the attribution of Top-up tax under the UTPR in respect of that jurisdiction, such information being consistent with an excerpt of Section 3.4.3 of the Top-up tax information return, and the Implementing Member State in which the ultimate parent entity is located shall be provided with all Jurisdictional sections.

3. The competent authority of a Member State shall exchange the Top-up tax information return received pursuant to paragraph 1 as soon as possible and in any case no later than three months after the filing deadline for that Reporting fiscal year.
 4. The competent authority of a Member State shall exchange the Top-up tax information return received after the filing deadline no later than three months following the date on which it is received.
 5. To facilitate the exchange of information referred to in paragraph 2 of this Article, the Commission shall adopt, by means of implementing acts, the necessary practical arrangements, as part of the procedure for establishing the standard computerised form provided for in Article 20(5). Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).
 6. The Commission shall not have access to the information referred to in paragraph 2, points (a) to (c).
 7. The communication and exchange referred to in paragraph 2, 3 and 4 of this Article shall take place using the standard computerised form referred to in Article 20(5).'
- (3) Article 8b is replaced by the following:

‘Article 8b

‘Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges under Articles 8(1), 8(3a), 8aa, 8ac and 8ae and with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.’

- (4) The following article is added:

‘Article 9a

Collaboration on Corrections, Compliance and Enforcement with respect to Top-up tax information returns

1. Where the competent authority of a Member State has reason to believe, that the information, in a Top-up tax information return regarding an ultimate parent entity or designated filing entity that is located in the jurisdiction of the other Member State, requires corrections, it shall notify the competent authority of the other Member State. If the notified competent authority agrees that the information in the Top-up tax information return requires corrections, it shall take, without delay, appropriate measures to obtain such corrected information from the concerned ultimate parent entity or designated filing entity. It shall exchange, without delay, the corrected information with all competent authorities for which such information is subject to exchange in accordance with this Directive.
 2. When the competent authority of a Member State has received a notification from one or more constituent entities located in its Member State that the Top-up tax information return for such constituent entities was to be filed by the ultimate parent entity or designated filing entity located in another Member state, but the information included in the Top-up tax information return was not exchanged withing the deadlines specified in it Article 8ae(3), it shall notify the other competent authority that the information has not been received.. The notified competent authority shall, without delay, determine the reason for not exchanging the concerned Top-up tax information return and shall inform the competent authority within one month of the receipt of the notification, including the expected exchange date for the Top-up tax information return where relevant.’
- (5) in Article 18, paragraph 4 is replaced by the following:
- ‘4. The competent authority of each Member State shall put in place an effective mechanism to ensure the use of information acquired through the reporting or the exchange of information under Articles 8 to 8ae.’;
- (6) in Article 20, paragraph 5 is replaced by the following:
- ‘5. The Commission shall adopt implementing acts laying down standard computerised forms, including the linguistic arrangements, in the following cases:
- (a) for the automatic exchange of information on advance cross-border rulings and advance pricing arrangements pursuant to Article 8a before 1 January 2017;
 - (b) for the automatic exchange of information on reportable cross-border arrangements pursuant to Article 8ab before 30 June 2019;
 - (c) for the automatic exchange of information on Reportable Crypto-Assets pursuant to Article 8ad before 30 June 2025;
 - (d) for automatic exchange of Top-up tax information return pursuant to Article 8ae before 1 January 2026.

Those standard computerised forms shall not exceed the components for the exchange of information listed in Articles 8a(6), 8ab(14), 8ad(3), and 8ae(2) and such other related fields which are linked to those components which are necessary to achieve the objectives of Articles 8a, 8ab, 8ad and 8ae, respectively.

The linguistic arrangements referred to in the first subparagraph of this paragraph shall not preclude Member States from communicating the information referred to in Articles 8a and 8ab in any of the official languages of the Union. However, those linguistic arrangements may provide that the key elements of such information shall also be sent in another official language of the Union.

The implementing acts referred to in this paragraph shall be adopted in accordance with the procedure referred to in Article 26(2).’;

(7) in Article 21, the following paragraph is added:

‘9. The Commission is empowered to adopt delegated acts, in accordance with Article 26a, to amend Section III of Annex VII to align it with any update of the standard Top-up tax information return laid down in the OECD/G20 Inclusive Framework agreement on Base Erosion and Profit Shifting (BEPS)*.

*OECD (2023), Tax Challenges Arising from the Digitalisation of the Economy – GloBE Information Return (Pillar Two), OECD Publishing, Paris, <https://doi.org/10.1787/91a49ec3-en>.’

(8) in Article 22, paragraphs 3 and 4 are replaced by the following:

‘3. Member States shall retain the records of the information received through the automatic exchange of information pursuant to Articles 8 to 8ae for no longer than necessary but in any event not less than five years from its date of receipt to achieve the purposes of this Directive.

4. Member States shall endeavour to ensure that a reporting entity is allowed to obtain confirmation by electronic means of the validity of the information on the TIN of any taxpayer subject to the exchange of information under Articles 8 to 8ae. The confirmation of the information on the TIN may be requested only for the purposes of validation of the correctness of the data referred to in Articles 8(1), 8(3a), 8a(6), 8aa(3), 8ab(14), 8ac(2), 8ad(3) and 8ae(2).’;

(9) Article 25a is replaced by the following:

*‘Article 25a
Penalties*

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa to 8ae, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.’;

(10) the following article is added:

*‘Article 26a
Exercise of the delegation*

1. The power to adopt the delegated act referred to in Article 21(9) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 21(9) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of power referred to in Article 21(9) may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the 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 the delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on better law making of 13 April 2016.
 5. As soon as it adopts the delegated act, the Commission shall notify it to the Council.
 6. The delegated act adopted pursuant to Article 21(9) shall enter into force only if no objection is expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.'
- (11) the following article is added:

'Article 27c

First Reporting fiscal year and exchange of the information referred to in Article 8ae for the first time

1. The first Reporting fiscal year for which the information shall be communicated is the relevant calendar year or other appropriate reporting period as from 1 January 2024.
 2. For the Member States that have elected not to apply the IIR and the UTPR pursuant to Article 50(1) of Council Directive (EU) 2022/2523, the first Reporting fiscal year shall be the first fiscal year following the end of that election.
 3. When exchanging the information referred in Article 8ae for the first time, the competent authority of the Member State may exchange that information until no later than six months after the deadlines provided for in that Article.'
- (12) the text set out in the Annex to this Directive is added as Annex VII.

Article 2

1. Member States shall adopt and publish, by 31 December 2025 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive.
2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
3. Notwithstanding paragraph 1, first subparagraph, the Member States that have elected not to apply the IIR and the UTPR pursuant to Article 50(1) of Council Directive (EU) 2022/2523 shall adopt and publish the laws regulations and administrative provisions necessary to comply with this Directive at the latest the day before the end of that election.
4. Member States shall communicate to the Commission, without delay, the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

*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

1.3. The proposal/initiative relates to:

1.4. Objective(s)

1.4.1. General objective(s)

1.4.2. Specific objective(s)

1.4.3. Expected result(s) and impact

1.4.4. Indicators of performance

1.5. Grounds for the proposal/initiative

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

1.5.2. 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.

1.5.3. Lessons learned from similar experiences in the past

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

1.5.5. Assessment of the different available financing options, including scope for redeployment

1.6. Duration and financial impact of the proposal/initiative

1.7. Method(s) of budget implementation planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system(s)

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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)

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

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- 3.2. Estimated financial impact of the proposal on appropriations**
 - 3.2.1. Summary of estimated impact on operational appropriations*
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- 3.3. Estimated impact on revenue**

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Council Directive (EU) 2024/XX of XX amending Directive 2011/16/EU on administrative cooperation in the field of taxation

1.2. Policy area(s) concerned

Tax policy

1.3. The proposal/initiative relates to:

☒ a new action

☐ a new action following a pilot project/preparatory action¹⁴

☐ the extension of an existing action

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

1.4. Objective(s)

1.4.1. General objective(s)

The proposal aims at ensuring a fair and efficient functioning of the internal market by facilitating central filing of the Top-up tax information return as defined in Directive 2022/2523/EU on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union.

This initiative also aims at safeguarding Member States' tax revenues by enabling information exchange with regard to the Top-up tax information return. This also contributes to deterring non-compliance.

1.4.2. Specific objective(s)

The proposal will provide for a uniform template for MNEs and large-scale domestic groups in the scope of Directive 2022/2523/EU to file their Top-up tax information returns. This will significantly reduce their administrative burden since the Top-up tax information return will be the same in all Member States.

Secondly, by providing automatic exchange of information, the proposal will enable MNEs in scope to file their Top-up tax information return only once for the whole MNE (central filing), which will reduce their administrative burden and significantly reduce the number of reports they would otherwise have to file.

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

MNEs in scope of Directive 2022/2523/EU will be able to use a central filing method, which will enable them to file one Top-up tax information return for the whole group. Without this proposal, each constituent entity of the MNE would have to file a separate Top-up tax information return with their respective tax administrations.

Central filing greatly reduces the administrative burden on the MNEs in scope.

¹⁴

As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

1.4.4. Indicators of performance

Specify the indicators for monitoring progress and achievements.

Specific objective	Indicators	Measurement tool
Provide for a uniform template for filing Top-up tax information return	MNEs in scope use the uniform template for filing Top-up tax information return	Yearly assessment of automatic exchange of information (source: Member States' tax administrations)
Enabling central filing method	MNEs in scope use central filing as opposed to the local filing method	Yearly assessment of automatic exchange of information (source: Member States' tax administrations)
Securing Member State's tax revenue collection	Additional tax revenues secured by implementation of Directive EU 2022/2523 due to checks enabled by controlling the Top-up tax information return	Yearly assessment of automatic exchange of information (source: Member States' tax administrations)

1.5. Grounds for the proposal/initiative

1.5.1. 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 proposal will use the practical arrangements currently used under DAC. A specific schema for automatic exchange of Top-up tax information return will be provided through an implementing act.

First fiscal year of application of Directive 2022/2523/EU is 2024 and the reporting of Top-up tax information return by groups in scope should happen no later than 15 months after the end of the fiscal year (Article 44(7) Directive 2022/2523/EU). Member States should send first information no later than six months after their national reporting date.

1.5.2. 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.

An action at the level of the EU will bring an added value as compared to individual Member States' initiatives in the field. The Council has adopted Directive 2022/2523/EU which lays down substantive rules for calculating taxing obligations by MNEs in scope. In order not to lose the harmonization of rules at the implementing stage, it is necessary to ensure action at the level of the EU also when it comes to the templates for reporting.

Furthermore, without establishing the framework for information exchange, MNEs in scope of the rules would face local filing requirements set separately by each Member States, which would mean that each of the constituent entities of the group would have to provide their respective local tax administrations with the full information for the group, which may be an impossible obligation in some cases. EU action is therefore essential, since the information exchange framework can not be ensured at a Member State level.

1.5.3. Lessons learned from similar experiences in the past

Country-by-country reporting which is already included in Directive 2011/16/EU as amended requires very high-level reporting from the MNEs in scope. Such data can only be used for risk management purposes and does not allow for any additional taxation on its own. The new framework in Directive 2022/2523/EU insists on a minimum level of taxation for the MNEs in scope. This proposal ensures an adequate implementation framework in order for Member States to obtain the information needed to be able to control and collect the required minimum level of taxes due.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

As the proposal is designed to amend Directive 2011/16/EU on administrative cooperation, the procedures, arrangements and IT tools already established or under development in the context of that Directive will be available for the purposes of this proposal.

1.5.5. Assessment of the different available financing options, including scope for redeployment

Implementation costs for the initiative will be financed by the EU budget concerning only the central components for the system of automatic exchange of information. Otherwise, it will be for Member States to implement the measures envisaged.

1.6. Duration and financial impact of the proposal/initiative

☐ limited duration

- ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

☒ unlimited duration

- Implementation with a start-up period from 2024,
- followed by full-scale operation in 2026.

1.7. Method(s) of budget implementation planned

☒ 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 are provided with 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 are provided with adequate financial guarantees;
- ☐ bodies or 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

This proposal builds on the existing framework and systems for the automatic exchange of information which were developed pursuant to Article 21 of Directive 2011/16/EU and in the context of previous amendments. The Commission in conjunction with Member States shall develop a standardised electronic format for information exchange through implementing measures. As regards the CCN network which will permit the exchange of information between Member States, the Commission is responsible for the development, maintenance and adaptation of such a network and Member States will undertake to create the appropriate domestic infrastructure that will enable the exchange of information via the CCN network.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Commission will evaluate the functioning of the intervention against the main policy objectives. Monitoring and evaluation will be carried out in alignment with the other elements of administrative cooperation.

Member States will submit data on an annual basis to the Commission for the information outlined in the above Table on indicators of performance which will be used to monitor compliance with the proposal.

Member States undertake to:

- Communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information provided for through Directive 2011/16/EU and referred to in Articles 8, 8a, 8aa, 8ab, 8ac and in the proposed 8ae as well;

- Provide a list of statistical data which is determined by the Commission in accordance with the procedure of Article 26(2) (implementing measures) for the evaluation of this Directive;

- Communicate to the Commission annually the results of their assessment the effectiveness of administrative cooperation. In Article 27 Directive 2011/16/EU, the Commission has undertaken to submit a report on the application of the Directive every five years, which started counting following 1 January 2013.

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 implementation of the initiative will rely on the competent authorities (tax administrations) of the Member States. They will be responsible for financing their own national systems and adaptations necessary for the exchanges to take place.

The Commission will set up the infrastructure, that will allow exchanges to be made between Member States' tax authorities. IT systems have been set up for the current scope of the DAC which will also be used for this initiative. The Commission will finance the adaptations of the systems needed to allow exchanges to take place, which will undergo the main elements of control being that for procurement contracts, technical verification of the procurement, ex-ante verification of commitments, and ex-ante verification of payments.

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

The proposed intervention will be based on a declarative system which entails the risk of non-declaration or misdeclaration by the MNEs in scope. To allow assessment of the overall compliance with the reporting obligation Member States will be required to report relevant statistics to the Commission on an annual basis. Furthermore, national administrations will be in charge of enforcing penalties and more generally of ensuring compliance with the proposed intervention. National tax

administrations will also be able to perform audits to detect and deter non-compliance.

The Fiscalis programme will support the internal control system, in accordance with Regulation (EU) 2021/847 of the European Parliament and of the Council of 20 May 2021, by providing funds for the following:

- Joint Actions (e.g. in the form of project groups);
- The development of the technical specifications, including the XML schema.

The main elements of the control strategy are:

Procurement contracts

The control procedures for procurement defined in the Financial Regulation: any procurement contract is established following the established procedure of verification by the services of the Commission for payment, taking into account contractual obligations and sound financial and general management. Anti-fraud measures (controls, reports, etc.) are foreseen in all contracts concluded between the Commission and the beneficiaries. Detailed terms of reference are drafted and form the basis of each specific contract. The acceptance process follows strictly the TAXUD TEMPO methodology: deliverables are reviewed, amended if necessary and finally explicitly accepted (or rejected). No invoice can be paid without an "acceptance letter".

Technical verification of procurement

DG TAXUD performs controls of deliverables and supervises operations and services carried out by contractors. It also conducts quality and security audits of their contractors on a regular basis. Quality audits verify the compliance of the contractors' actual processes against the rules and procedures defined in their quality plans. Security audits focus on the specific processes, procedures and set-up.

In addition to the above controls, DG TAXUD performs the traditional financial controls:

Ex-ante verification of commitments

All commitments in DG TAXUD are verified by the Head of the Finances, public procurement, compliance Unit. Consequently, 100% of the committed amounts are covered by the ex-ante verification. This procedure gives a high level of assurance as to the legality and regularity of transactions.

Ex-ante verification of payments

100% of payments are verified ex-ante. Moreover, at least one payment (from all categories of expenditures) per week is randomly selected for additional ex-ante verification performed by the head of the Finances, public procurement and compliance Unit. There is no target concerning the coverage, as the purpose of this verification is to check payments "randomly" in order to verify that all payments were prepared in line with the requirements. The remaining payments are processed according to the rules in force on a daily basis.

Declarations of the Authorising Officers by Sub-Delegations (AOSD)

All the AOSD sign declarations supporting the Annual Activity Report for the year concerned. These declarations cover the operations under the programme. The AOSD declare that the operations connected with the implementation of the budget

have been executed in accordance with the principles of the sound financial management, that the management and control systems in place provided satisfactory assurance concerning the legality and regularity of the transactions and that the risks associated to these operations have been properly identified, reported and that mitigating actions have been implemented.

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 controls established enable DG TAXUD to have sufficient assurance of the quality and regularity of the expenditure and to reduce the risk of non-compliance. The above control strategy measures reduce the potential risks below the target of 2% and reach all beneficiaries. Any additional measures for further risk reduction would result in disproportionately high costs and are therefore not envisaged. The overall costs linked to implementing the above control strategy – for all expenditures under Fiscalis 2027 programme – are limited to 1.6% of the total payments made. It is expected to remain at the same ratio for this initiative. The programme control strategy limits the risk of non-compliance to virtually zero and remains proportionate to the risks entailed.

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

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

The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 of the European Parliament and of the Council¹⁵ and Council Regulation (Euratom, EC) No 2185/96¹⁶ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.

¹⁵ Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OJ L 136 p. 1, 31.5.1999.

¹⁶ 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 p. 2, 15.11.96.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. ¹⁷	from EFTA countries ¹⁸	from candidate countries and potential candidates ¹⁹	from other third countries	other assigned revenue
1 – Single Market, Innovation and Digital	Improving the proper functioning of the taxation systems	Diff.	NO	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.	from EFTA countries	from candidate countries and potential candidates	from other third countries	other assigned revenue
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

¹⁷ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

¹⁸ EFTA: European Free Trade Association.

¹⁹ Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

Heading of multiannual financial framework	Number	Single Market, Innovation and Digital
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DG: TAXUD			Year 2024 ²⁰	Year 2025	Year 2026	Year 2027	Total
○ Operational appropriations							
Budget line ²¹ 03.04.01	Commitments	(1a)	2.3 ²²	0	0.65	0.35	3.3
	Payments	(2a)	0	2.3	0.65	0.35	3.3
Budget line	Commitments	(1b)					
	Payments	(2b)					
Appropriations of an administrative nature financed from the envelope of specific programmes ²³							
Budget line		(3)					
TOTAL appropriations for DG TAXUD	Commitments	=1a+1b +3	2.3	0	0.65	0.35	3.3
	Payments	=2a+2b +3	0	2.3	0.65	0.35	3.3

²⁰ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

²¹ According to the official budget nomenclature.

²² Procurement will start in 2024 with delivery target date of 31. 12. 2025

²³ 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.

Heading of multiannual financial framework	7	‘Administrative expenditure’
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This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the [Annex to the Legislative Financial Statement](#) (Annex 5 to the Commission decision on the internal rules for the implementation of the Commission section of the general budget of the European Union), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
DG: TAXUD						
○ Human resources		0.712	0.712	0.534	0.534	2.492
○ Other administrative expenditure		0.005	0.005	0.003	0.002	0.015
TOTAL DG TAXUD	Appropriations	0.717	0.717	0.537	0.536	2.507

EUR million (to three decimal places)

3.2.2. *Estimated output funded with operational appropriations*

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs			Year 2024	Year 2025	Year 2026	Year 2027	TOTAL

	Type ²⁴	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ²⁵ ...												
Specifications						0.5						0.5
Development						1.0						1.0
Maintenance								0.2		0.1		0.3
Support						0.3		0.35		0.15		0.8
Training						0.4						0.4
ITSM – Infrastructure						0.1		0.1		0.1		0.3
ITSM - hosting												
ITSM - licences												
Subtotal for specific objective No 1				0.0		2.3		0.65		0.35		3.3
TOTALS				0.0		2.3		0.65		0.35		3.3

²⁴ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

²⁵ As described in point 1.4.2. ‘Specific objective(s)...’

3.2.3. Summary of estimated impact on administrative appropriations

- ☐ 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)

	Year 2024 ²⁶	Year 2025	Year 2026	Year 2027	TOTAL
--	----------------------------	--------------	--------------	--------------	-------

HEADING 7 of the multiannual financial framework					
Human resources	0.712	0.712	0.534	0.534	2.492
Other administrative expenditure	0.005	0.005	0.003	0.002	0.015
Subtotal HEADING 7 of the multiannual financial framework	0.717	0.717	0.537	0.536	2.507

Outside HEADING 7²⁷ of the multiannual financial framework					
Human resources					
Other expenditure of an administrative nature					
Subtotal outside HEADING 7 of the multiannual financial framework					

TOTAL	0.717	0.717	0.537	0.536	2.507
--------------	--------------	--------------	--------------	--------------	--------------

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.

²⁶ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

²⁷ 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.

3.2.3.1. 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

	Year 2024	Year 2025	Year 2026	Year 2027
20 01 02 01 (Headquarters and Commission's Representation Offices)	4	4	3	3
20 01 02 03 (Delegations)				
01 01 01 01 (Indirect research)				
01 01 01 11 (Direct research)				
Other budget lines (specify)				
20 02 01 (AC, END, INT from the 'global envelope')				
20 02 03 (AC, AL, END, INT and JPD in the delegations)				
XX 01 xx yy zz ²⁸	- at Headquarters			
	- in Delegations			
01 01 01 02 (AC, END, INT - Indirect research)				
01 01 01 12 (AC, END, INT - Direct research)				
Other budget lines (specify)				
TOTAL	4	4	3	3

XX is the policy area or budget title concerned.

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	<p>3 additional AD staff needed for the reparation of meetings and correspondence with Member States, work on implementing regulation, IT formats.</p> <p>Staff request is additional to the currently existing TAXUD workforce. Proper operationalization of the Council Directive 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (the Pillar Two Directive) is of utmost importance for the functioning of the internal market as well as for the competitiveness of the EU. Furthermore it will bring significant burden reductions for the MNE groups in scope.</p> <p>This work is also included in the mission letter of Commissioner designate responsible for taxation, namely to work with Member States on the implementation of the global agreement on international tax reform, which introduces a minimum effective tax rate for multinational enterprises active in the EU</p> <p>New responsibilities stemming from this legislation can not be covered with existing staff. Given that this is an ongoing task, the work will continue beyond 2027.</p>
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²⁸

Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

External staff	N/A
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3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

- ☒ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

This proposal will be financed from redeployment of funds from the existing Fiscalis programme 2024-2027.

- ☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

- ☐ requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *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)

	Year N ²⁹	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

²⁹ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

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:	Appropriations available for the current financial year	Impact of the proposal/initiative ³⁰						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article								

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

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

³⁰ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.



EUROPEAN
COMMISSION

Brussels, 28.10.2024
COM(2024) 497 final

ANNEX

ANNEX

to the

Proposal for a Council Directive

amending Directive 2011/16/EU on administrative cooperation in the field of taxation

‘ANNEX VII

Filing rules and form for Top-up tax information return

SECTION I

DEFINITIONS

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

- (1) ‘Implementing Member State’ means a Member State that has implemented either a qualified income inclusion rule (IIR) or a qualified under-taxed profits rule (UTPR as defined in Article 3 of Council Directive (EU) 2022/2523 or both, for the given Reporting fiscal year.
- (2) ‘Qualified domestic top-up tax (QD TT)-only Member States’ means a Member State that has implemented a qualified domestic minimum top-up tax as defined in Article 3 of Council Directive (EU) 2022/2523 for the given Reporting fiscal year.
- (3) ‘Top-up tax information return’ means the information return filed by an ultimate parent entity, designated filing entity, designated local entity or constituent Entity for which the form is included in Section III of this Annex.
- (4) ‘General section’ means the section of the Top-up tax information return that contains general information on the MNE group as a whole, including its corporate structure and a high-level summary of the application of Council Directive (EU) 2022/2523, such section being consistent with Section 1 of the Top-up tax information return.
- (5) ‘Jurisdictional section’ means the sections of the Top-up tax information return that contain information on the detailed application of Council Directive (EU) 2022/2523 in respect of each jurisdiction where the MNE group is operating, such sections being consistent with Sections 2 and 3 of the Top-up tax information return.
- (6) ‘Reporting fiscal year’ means the fiscal year to which the Top-up tax information return relates.

SECTION II

FILING REQUIREMENTS

1. The constituent entity filing the Top-up tax information return shall identify the relevant sections and the relevant Member States that the information shall be distributed to pursuant to the dissemination approach set out Article 8ae.
2. Large-scale domestic groups shall use the Top-up tax information return in Section III of this Annex to fulfil their reporting obligations under Council Directive (EU) 2022/2523.

SECTION III
DATA POINTS

1. MNE GROUP INFORMATION

1.1. Identification of the filing constituent entity

1. UPE is the filing constituent entity	2. Name of the filing constituent entity	3. Tax identification number	4. Role	5. Jurisdiction where the filing constituent entity is located	6. Recipient Jurisdictions for Exchange of Information (if relevant)
Yes/No					

1.2. MNE group general information

1.2.1. MNE group and reporting fiscal year

1. Name of the MNE group	2. Start date of the reporting fiscal year	3. End date of the reporting fiscal year	4. Amended return
			Yes/No

1.2.2. MNE General accounting information

1. Consolidated financial statements of the UPE (type)	2. Financial accounting standard used for the consolidated financial statements of the UPE	3. Presentation currency used for the consolidated financial statements of the UPE (ISO code)

1.3. Corporate structure

1.3.1. Ultimate parent entity

1. UPE Jurisdiction	
2. Applicable rules?	
3. Name of the UPE	
4. TIN of the UPE	

5. TIN of the UPE in the Filing Jurisdiction (if different, and if any)	
6. Status for Council Directive (EU) 2022/2523* purposes	
*Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (OJ L 328, 22.12.2022, p. 1, ELI: http://data.europa.eu/eli/dir/2022/2523/oj).	
7. If the UPE is an excluded entity - Type	

1.3.2. Group entities (other than the UPE) and members of joint venture groups

1.3.2.1. Constituent entities and members of joint venture groups

Changes	1. Changes from previous reporting fiscal year?	Yes/No
Jurisdiction	2. Jurisdiction	
	3. Applicable rules?	
Identification of the constituent entity, joint venture or joint venture affiliate	4. Name of constituent entity, joint venture or joint venture affiliate	
	5. TIN	
	6. TIN for filing jurisdiction (if any)	
	7. Status for Pillar Two Directive purposes	
Ownership structure of the constituent entity, joint venture or joint venture affiliate	For each entity holding ownership interests in the constituent entity, joint venture or joint venture affiliate: 8. Type 9. TIN (for constituent entities or members of joint venture groups) 10. Ownership interest held (percentage)	
If the constituent entity is a partially owned parent entity or an intermediate parent entity, is the entity required to apply a qualified IIR?	11. Parent entity status	
	12. If the intermediate parent entity shall not apply IIR, because the UPE is subject to qualified IIR or there is another intermediate parent entity that owns a controlling interest in it and is subject to qualified IIR, identify the UPE or the other intermediate parent entity (TIN)	
	13. If the partially owned parent entity shall not apply IIR, because another partially owned parent entity that is subject to qualified IIR holds 100% of its ownership interests, identify the other partially owned parent entity required to apply a qualified IIR (TIN)	
Is UTPR applicable in respect of the entity?	14. Initial phase of international activity applicable?	Yes/No
	15. Aggregate ownership interests (respectively allocable share of top-up taxes) of parent entities required to apply a qualified IIR in respect of the constituent entity (respectively member of joint venture group) (in percentage)	

	16. Are the UPE's ownership interests in the constituent entity (respectively UPE's allocable share of top-up tax for the member of joint venture group) greater than the aggregate ownership interests (respectively allocable share) of parent entities required to apply a qualified IIR in that constituent entity (respectively member of joint venture group)?	Yes/No
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1.3.2.2. Excluded entities

1. Changes from previous Reporting fiscal year?	Yes/No
2. Name of the excluded entity	
3. Type of the excluded entity	

1.3.3. Changes in the corporate structure that occurred during the Reporting fiscal year

Were changes in the corporate structure that occurred during the Reporting fiscal year not reported because they neither affected the effective tax rate computation or the computation or allocation of top-up tax?								Yes/No
1. Name of the constituent entity (or other entity of the MNE group) or member of joint venture group	2. TIN	3. Effective date of the change	4. Status before the change	5. Status after the change	6. Entities holding ownership interests in that constituent entity (or other entity) or member of joint venture group before or after the change	7. Ownership interests held in that constituent entity (or other entity) or member of joint venture group before the change (Percentage)	8. Ownership interests held in that constituent entity (or other entity) or member of joint venture group after the change (Percentage)	

1.4. High-level summary of information

1. Name of the jurisdiction	2. Type of subgroup (if any)	3. Identification of subgroup (if any)	4. Name(s) of jurisdiction(s) with taxing rights	5. Safe harbour or exclusion applied?	6. Effective tax rate range	7. Has application of substance-based income exclusion resulted in no top-up tax arising?	8. Top-up tax payable (qualified domestic top-up tax) – range	9. Top-up tax payable (qualified IIR/ qualified UTPR – range
				[Insert relevant option]	[Insert relevant option]	Yes/No	[Insert relevant option]	[Insert relevant option]

2. JURISDICTIONAL SAFE HARBOURS AND EXCLUSIONS

2.1. Characteristics of the jurisdiction

1. Name of the jurisdiction	
2. Type of subgroup (if any)	
3. Identification of subgroup (if any)	

2.2. Jurisdictional exceptions applicable in respect of this jurisdiction (top-up tax reduced to zero)

2.2.1. Safe harbour jurisdiction election

2.2.1.1. Safe harbour election

1. Safe Harbour elected	[insert the relevant option]
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2.2.1.2. Permanent safe harbours

☐ Simplified calculation for non-material constituent entities

	1. Total revenue of all non-material constituent entities in the jurisdiction	2. Aggregate simplified tax of all non-material constituent entities in the jurisdiction
a. Reporting fiscal year		
b. 1 st preceding fiscal year (if applicable)		n.a.
c. 2 nd preceding fiscal year (if applicable)		n.a.
d. Average of the three fiscal years (if applicable)		n.a.

2.2.1.3. Transitional safe harbours

(a) Transitional CbCR safe harbour

1. Total revenue	
------------------	--

2. Profit (loss) before income tax	
3. Simplified covered taxes	

(b) Transitional UTPR safe harbour

2.2.2. *Election for de minimis exclusion*

☐ Election to apply the de minimis exclusion for the Reporting fiscal year

	1. Revenue (financial accounts)	2. Qualifying revenue	3. Financial accounting net income or loss	4. Qualifying income or loss
a. Reporting fiscal year				
b. 1st preceding fiscal year (if applicable)				
c. 2nd preceding fiscal year (if applicable)				
d. Average of the three fiscal years				

2.3. **MNE group in the initial phase of international activity (if applicable)**

1. First day of the first fiscal year in which the MNE group originally falls within the scope of the rules	
2. Reference jurisdiction	
3. Net book value of tangible assets in reference jurisdiction for the fiscal year in which the MNE group originally falls within the scope of the rules	
4. Number of jurisdictions where the MNE group has constituent entities for the fiscal year in which the MNE group originally falls within the scope of the rules	
5. Tangible assets of constituent entities located outside the reference jurisdiction for the fiscal year in which the MNE group originally falls within the scope of the rules	a. Jurisdiction
	b. Net book values of tangible assets of all constituent entities located in each jurisdiction
6. Number of jurisdictions where the MNE group has constituent entities during the Reporting fiscal year	
7. Sum of the net book values of tangible assets of all constituent entities located in other jurisdictions than the reference jurisdiction during the Reporting fiscal year	

3. COMPUTATIONS

3.1. Characteristics of the jurisdiction

1. Name of the jurisdiction	
2. Type of subgroup (if any)	
3. Identification of subgroup (if any) for the effective tax rate and top-up tax computation	

3.2. Effective tax rate computation

3.2.1. *Effective tax rate*

a. Financial accounting net income or loss	b. Net qualifying income or loss	c. Income tax expense	d. Adjusted covered taxes	e. Effective tax rate
	[A]		[B]	$[C]=[B]/[A]$

3.2.1.1. Computation of the qualifying income or loss

1. Aggregate financial accounting net income or loss amount after allocations (All constituent entities in the jurisdiction)	
2. Adjustments	Net amount
(a) Net taxes expense	
(b) Excluded dividends	
(c) Excluded equity gain or loss	
(d) Included revaluation method gain or loss	
(e) Gain or loss from disposition of assets and liabilities excluded due to reorganization	
(f) Asymmetric foreign currency gains or losses	
(g) Policy disallowed expenses	
(h) Prior period errors	
(i) Changes in accounting principles	

(j)	Accrued pension expense	
(k)	Debt releases	
(l)	Stock-based compensation	
(m)	Arm's length adjustments	
(n)	Qualified refundable tax credit or marketable transferable tax Credit	
(o)	Election for gains and losses using realisation principle	
(p)	Election for adjusted asset gain	
(q)	Intragroup financing arrangement expense	
(r)	Election for intragroup transactions in same jurisdiction	
(s)	Insurance company taxes charged to policyholders	
(t)	Increase/decrease to equity attributed to additional tier one capital distributions paid/payable or received/receivable	
(u)	Constituent entities joining and leaving an MNE group	
(v)	Reduction of qualifying income of the UPE that is a flow-through entity	
(w)	Reduction of qualifying income of the UPE that is subject to a deductible dividend regime	
(x)	Taxable distribution method election	
(y)	International shipping income	
(z)	Transactions between constituent entities	
3. Net qualifying income or loss of the jurisdiction		

3.2.1.2. Computation of adjusted covered taxes

(a) Total amount of adjusted covered taxes

1. Aggregate current tax expense with respect to covered taxes after allocations (All constituent entities in the jurisdiction)	
2. Adjustments	Net amount
(a) Covered tax accrued as an expense in the profit before taxation in the financial accounts	
(b) Qualifying loss deferred tax asset established or used	

(c)	Covered taxes for uncertain tax position recorded as a reduction to covered taxes in prior year	
(d)	Qualified refundable tax credit or marketable transferable tax credits recorded as a reduction to current tax expense	
(e)	Qualified flow-through tax benefits of qualified ownership interests	
(f)	Current tax expense on income excluded from qualifying income or loss	
(g)	Non-qualified refundable tax credit, non-marketable transferable tax credit or other tax credits not recorded as a reduction to current tax expense	
(h)	Covered taxes refunded or credited (except for any qualified refundable tax credit, or marketable transferable tax credits) not treated as an adjustment to current tax expense	
(i)	Current tax expense related to uncertain tax position	
(j)	Current tax expense not expected to be paid within three years	
(k)	Post-filing adjustments	
(l)	Covered taxes relating to net asset gain or net asset loss	
(m)	Reduction of covered taxes of the UPE that is a flow-through entity	
(n)	Covered taxes for qualifying income of the UPE that is reduced under a deductible dividend regime	
(o)	Deemed distribution tax	
(p)	Taxable distribution method election	
(q)	Total deferred tax adjustment amount	
(r)	Increase or decrease in covered taxes recorded in equity or other comprehensive income relating to amounts included in qualifying income or loss that will be subject to tax under local tax rules	
(s)	Excess negative tax expense carry-forward generated	
(t)	Decrease in covered taxes (but not below zero) by the remaining balance of the excess negative tax expense carry-forward	
3. Adjusted covered taxes		

(b) Excess negative tax expense carry-forward

1.	Balance from prior years	[A]
2.	Excess negative tax expense carry-forward generated in the Reporting fiscal year	[B]
3.	Excess negative tax expense carry-forward utilised for the Reporting fiscal year	[C]

4. Excess negative tax expense carry-forward remaining for subsequent years	[D]=[A]+[B]-[C]
---	-----------------

(c) Transitional blended CFC regime calculation (if any)

1. CFC jurisdictions	2. Subgroup	3. Aggregated taxes allocated to that subgroup under a blended CFC tax regime
Total		

3.2.2. *Jurisdictional computations relating to deferred tax accounting*

3.2.2.1. Deferred tax adjustments

(a) High-level summary

1. Deferred tax expense amount	[A]
2. Recasting the deferred tax expense to the minimum tax rate, where:	[B] = [C] + [D]
3. The recast is an increase of the deferred tax asset recorded at a lower tax rate than the minimum tax rate	[C]
4. The recast relates to the deferred tax expense recorded at a higher tax rate than the minimum tax rate	[D]
5. Total amount of the adjustments	[E]
6. Total deferred tax adjustment amount	[F] = [B] +/- [E]

(b) Breakdown of the adjustments

	Net amount
1. Adjustments to deferred tax expense	
(a) Deferred tax expense related to items excluded from qualifying income or loss	
(b) Deferred tax expense related to disallowed accruals	
(c) Deferred tax expense related to unclaimed accruals	
(d) Valuation adjustment or accounting recognition adjustment related to a deferred tax asset	
(e) Deferred tax expense arising from a re-measurement related to changes in the tax rate	
(f) Deferred tax expense related to the generation and use of tax credits	
(g) Substitute loss carry-forward deferred tax asset or deemed substitute loss carry-forward deferred tax asset	
(h) Disallowed accruals or unclaimed accruals paid during the fiscal year	

(i)	Recapture deferred tax liability paid during the fiscal year	
(j)	Recognition of a loss deferred tax asset not included in the financials	
(k)	Deferred tax expense adjustment resulting from a reduction to a tax rate	
(l)	Deferred tax expense adjustment resulting from an increase to a tax rate	
(m)	Constituent entities joining and leaving an MNE group	
(n)	Deferred tax expense of the UPE that is a flow-through entity	
(o)	Deferred tax expense of the UPE that is subject to deductible dividend regime	
(p)	Deferred tax adjustment resulting from transactions between constituent entities	
2.	Total amount of the adjustments	[E]

(c) Loss carry-backs

	1. Deemed deferred tax assets attributable to loss carry-backs	2. Covered tax refund relating to loss carry-backs
a. Amount attributed to prior fiscal year X		
b. Amount attributed to prior fiscal year Y, etc.		
c. Total		

3.2.2.2. Recapture mechanism

1. Fiscal year	2. Deferred tax liability taken into account	3. Deferred tax liability reversed						4. Deferred tax liability not reversed
		4 th preceding fiscal year	3 rd preceding fiscal year	2 nd preceding fiscal year	1 st preceding fiscal year	Reporting fiscal year	Total	
5 th preceding fiscal year	[A]	[B]	[C]	[D]	[E]	[F]	[G] = [B] + [C] + [D] + [E] + [F]	[H]=[A]-[G]
4 th preceding fiscal year		Not applicable						
3 rd preceding fiscal year		Not applicable	Not applicable					
2 nd preceding fiscal year		Not applicable	Not applicable	Not applicable				
1 st preceding fiscal year		Not applicable	Not applicable	Not applicable	Not applicable			
Reporting fiscal year		Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	

3.2.2.3. Transition rules

1. Transition year	
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(a) Deferred tax assets and deferred tax liabilities at the beginning of the transition year

Deferred tax liabilities

1. Deferred tax liabilities at the beginning of the transition year	2. Deferred tax liabilities recast at the minimum tax rate (if applicable)

Deferred tax assets

3. Deferred tax assets at the beginning of the transition year	4. Deferred tax assets recast at the minimum tax rate (if applicable)	5. Deferred tax assets arising from excluded items	6. Deferred tax assets taken into account for purposes of the rules
[A]	[B]	[C]	[D] = [A] or [B], if applicable] - [C]

(b) Transfer of assets after 30 November 2021 and before the commencement of a transition year

1. Jurisdiction of the disposing entities	2. Tax paid in respect of the transaction(s)	3. Net deferred tax asset or liability reflected in the financial accounts of the disposing constituent entity(ies)	4. Carrying value of the transferred assets for purposes of the rules	5. Net deferred tax asset or liability is determined with respect to the transferred assets for purposes of the rules for acquiring constituent entity(ies)

3.2.3. *Jurisdictional elections (if any)*

3.2.3.1. Jurisdictional elections

(a) Elections

1. Annual elections			
a. Aggregate asset gain election			┘
b. Immaterial decrease in covered taxes election			┘
c. Election not to apply the substance-based income exclusion			┘
d. Negative tax expense carry-forward			┘
2. Five-year elections		3. Election year	4. Revocation year
e. Equity investment inclusion election			
f. Stock-based compensation election			
g. Realisation-principle election			
h. Intra-group transactions election			
5. Other elections	6. Election year	7. Revocation year	
i. Qualifying loss election			

(b) Information requirements related to jurisdictional elections

1. Inclusion of equity gain or loss with respect to an equity investment inclusion election	
2. Balance of the owner's investment in a qualified ownership interest from prior years	[A]
3. Additions to the owner's investment in a qualified ownership interest	[B]
4. Reductions to the owner's investment in a qualified ownership interest	[C]
5. Outstanding balance of the owner's investment in a qualified ownership interest	[D]=[A]+[B]-[C]

3.2.3.2. Deemed distribution tax election

1. Deemed distribution tax election]
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(a) Recapture mechanism

1. Fiscal year	2. Amount of deemed distribution tax	3. Deemed distribution tax paid or used				4. Outstanding balance of a deemed distribution tax recapture account
		3 rd preceding fiscal year	2 nd preceding fiscal year	1 st preceding fiscal year	Reporting fiscal year	
4 th preceding fiscal year						
3 rd preceding fiscal year		Not applicable				
2 nd preceding fiscal year		Not applicable	Not applicable			
1 st preceding fiscal year		Not applicable	Not applicable	Not applicable		
Reporting fiscal year		Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

(b) Recalculation of effective tax rate and top-up tax

1. Reduction to the adjusted covered taxes for a prior fiscal year	2. Incremental top-up tax	3. Disposition recapture ratio
[A]	[B]	[C]

3.2.4. Constituent entity computations

(a) Election for the transitional simplified jurisdictional reporting framework

1. Does the MNE group elect to apply the transitional simplified jurisdictional reporting framework?	Yes/No
--	--------

(b) Aggregated reporting for tax consolidated groups

1. Tax consolidated group (TIN)	2. Consolidated entities (TIN)

3.2.4.1. Qualifying income or loss

(a) Adjustments to the financial accounting net income or loss

1. Constituent entity or member of joint venture group (TIN)		
2. Financial accounting net income or loss amount after allocations		
3. Adjustments	Additions	Reductions
(a) Net taxes expense		
(b) Excluded dividends		
(c) Excluded equity gain or loss		
(d) Included revaluation method gain or loss		
(e) Gain or loss from disposition of assets and liabilities excluded due to reorganization		
(f) Asymmetric foreign currency gains or losses		
(g) Policy disallowed expenses		
(h) Prior period errors		
(i) Changes in accounting principles		
(j) Accrued pension expense		
(k) Debt releases		
(l) Stock-based compensation		
(m) Arm's length adjustments		
(n) Qualified refundable tax credit or marketable transferable tax credits		
(o) Election for gains and losses using realisation principle		
(p) Election for adjusted asset gain		
(q) Intragroup financing arrangement expense		
(r) Election for intragroup transactions in same jurisdiction		
(s) Insurance company taxes charged to policyholders		
(t) Increase/decrease to equity attributed to additional tier one capital distributions paid/payable or received/receivable		
(u) Constituent entities joining and leaving an MNE group		

(v)	Reduction of qualifying income of the UPE that is a flow-through entity		
(w)	Reduction of qualifying income of the UPE that is subject to a deductible dividend regime		
(x)	Taxable distribution method election		
(y)	International shipping income		
(z)	Transactions between constituent entities		
4. Qualifying income or loss of the constituent entity or member of joint venture group			

(b) Cross-border allocation of income or loss between a main entity and a permanent establishment and of a flow-through entity

1. Constituent entity or members of joint venture groups located in this jurisdiction or stateless constituent entity (TIN)	2. Financial accounting net income or loss before the adjustment	3. Basis for the adjustment	4. Other constituent entity or member of joint venture group (TIN)	5. Jurisdiction of other constituent entity or member of joint venture group (ISO)	6. Additions to this constituent entity	7. Reductions to this constituent entity	8. Financial accounting net income or loss after the adjustment

(c) Cross-border adjustments

1. Constituent entity or member of joint venture group (TIN)	2. Basis for the adjustment	3. Other constituent entity or member of joint venture group (TIN)	4. Jurisdiction of other constituent entity (ISO)	5. Additions to this constituent entity	6. Reductions to this constituent entity

(d) Adjustments to the qualifying income of the UPE that is a flow-through entity or is subject to a deductible dividend regime

1. Constituent entity (or member of joint venture group) located in this jurisdiction (TIN)	2. Basis for reduction	3. Identification of holders of ownership interests or dividend recipients (see note)	4. Ownership interest directly held (in percentage)	5. Reductions for this constituent entity

3.2.4.2. Adjusted covered taxes

(a) Adjustments to the current tax expense in the financial accounts

1. Constituent entity or member of joint venture group (TIN)		
2. Current tax expense with respect to covered taxes after allocations		
3. Adjustments	Additions	Reductions
(a) Covered tax accrued as an expense in the profit before taxation in the financial accounts		
(b) Qualifying loss deferred tax asset established or used		
(c) Covered taxes for uncertain tax position recorded as a reduction to covered taxes in prior year		
(d) Qualified refundable tax credit or marketable transferable tax credits recorded as a reduction to current tax expense		
(e) Qualified flow-through tax benefits of qualified ownership interests		
(f) Current tax expense on income excluded from qualifying income or loss		
(g) Non-qualified refundable tax credit, non-marketable transferable tax credits or other tax credits not recorded as a reduction to current tax expense		
(h) Covered taxes refunded or credited (except for any qualified refundable tax credit, or marketable transferable tax credits) not treated as an adjustment to current tax expense		
(i) Current tax expense related to uncertain tax position		
(j) Current tax expense not expected to be paid within three years		
(k) Post-filing adjustments		
(l) Covered taxes relating to net asset gain or net asset loss		
(m) Reduction of covered taxes of the UPE that is a flow-through entity		
(n) Covered taxes for qualifying income of the UPE that is reduced under a deductible dividend regime		
(o) Deemed distribution tax		
(p) Taxable distribution method election		
(q) Total deferred tax adjustment amount		

(r) Increase or decrease in covered taxes recorded in equity or other comprehensive income relating to amounts included in qualifying income or loss that will be subject to tax under local tax rules		
4. Adjusted covered taxes		

(b) Cross allocation of taxes

1. Constituent entity located in this jurisdiction or stateless constituent entity (or member of joint venture group) (TIN)	2. Covered taxes of the constituent entity (or member of joint venture group) before the adjustment	3. Basis for the adjustment	4. Other constituent entity (or member of joint venture group) (TIN)	5. Jurisdiction of other constituent entity (or member of joint venture group) (ISO)	6. Additions to this constituent entity	7. Reductions to this constituent entity	8. Covered taxes of the constituent entity (or member of joint venture group) after the adjustment

(c) Deferred tax expense

1. Constituent entity or member of joint venture group (TIN)		
2. Deferred tax expense amount		
3. Adjustments to deferred tax expense	Additions	Reductions
(a) Deferred tax expense related to items excluded from qualifying income or loss		
(b) Deferred tax expense related to disallowed accruals		
(c) Deferred tax expense related to unclaimed accruals		
(d) Valuation adjustment or accounting recognition adjustment related to a deferred tax asset		
(e) Deferred tax expense arising from a re-measurement related to changes in the tax rate		
(f) Deferred tax expense related to the generation and use of tax credits		
(g) Substitute loss carry forward DTA or deemed substitute loss carry forward DTA		
(h) Disallowed accruals or unclaimed accruals paid during the fiscal year		
(i) Recapture deferred tax liability paid during the fiscal year		
(j) Recognition of a loss deferred tax asset not included in the financials		
(k) Deferred tax expense adjustment resulting from a reduction to a tax rate		

(l)	Deferred tax expense adjustment resulting from an increase to a tax rate		
(m)	Constituent entities joining and leaving an MNE group		
(n)	Deferred tax expense of the UPE that is a flow-through entity		
(o)	Deferred tax expense of the UPE that is subject to deductible dividend regime		
(p)	Deferred tax adjustment resulting from transactions between constituent entities		
4.	Total deferred tax adjustment amount		

3.2.4.3. Constituent entity elections (or elections that apply to a joint venture group)

1. Constituent entities (or member of joint venture group) for which an election is made (TIN)				
2.	Annual elections	a. Debt release election		
		b. Unclaimed accrual election		
3.	Five-year elections		4. Election year	5. Revocation year
		c. Not treating an entity as an excluded entity election		
		d. Inclusion of all dividends with respect to portfolio shareholdings		
		e. Treating foreign exchange gains or losses attributable to hedging as an excluded equity gain or loss		
		f. Investment entity tax transparency election		
		g. Taxable distribution method election		
		h. Fair value election		
1. Constituent entities (members of joint venture groups) for which the election is made (TIN)		2. Fiscal year of the triggering event	3. Inclusion in the fiscal year of the triggering event or 5-year inclusion	

3.2.4.4. International shipping income exclusion

(a) International shipping income exclusion

1. Constituent entity or member of joint venture group located in this jurisdiction (TIN)			
International shipping income	2. Category		
	3. Revenue		[A]
	4. Costs		[B]
	5. International shipping income		[C]=[A]-[B]
Qualified ancillary international shipping income	6. Category		
	7. Revenue		[D]
	8. Costs		[E]
	9. Qualified ancillary international shipping income		[F]=[D]-[E]

Effect on substance-based income exclusion	10. Payroll costs attributable to the excluded international shipping income or qualified ancillary international shipping income	
	11. Carrying value of tangible assets used in the generation of the excluded international shipping income or qualified ancillary international shipping income	
Covered taxes	12. Covered taxes attributable to the excluded international shipping income or qualified ancillary international shipping income	

(b) Jurisdictional cap for the qualified ancillary international shipping income exclusion

1. Total international shipping income for all constituent entities (or members of joint venture group)	[A]
2. 50% cap	50% x [A]
3. Total qualified ancillary international shipping income for all constituent entities (or members of joint venture group)	[B]
4. Excess of the cap if B exceeds 50% of A	[B] - 50% x [A]

3.2.4.5. Information for purposes of election to apply taxable distribution method (if applicable)

Taxable distribution method election

1. Constituent entity-owner (or member of joint venture group) for which an election is made (TIN)	2. Investment entity for which the election is made (TIN)	3. Actual and deemed distributions of the investment entity's qualifying income received by the constituent entity-owner	4. Local creditable tax gross-up incurred by the investment entity	5. Constituent entity-owner's proportionate share of the investment entity's undistributed net qualifying income

3.2.4.6. Other accounting standard

1. Constituent entity (or member of joint venture group) with financial accounting net income or loss based on a different accounting standard (TIN)	2. Acceptable or authorised financial accounting standard

3.3. Top-up tax computation

3.3.1. Top-up tax

a. Top-up tax percentage	b. Substance-based income exclusion	c. Excess profits	d. Additional top-up tax	e. domestic top-up tax	f. Top-up tax
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[A]=15% - effective tax rate	[B]	[C] = net qualifying income or loss -[B]	[D]	[E]	=[A]x[C]+[D]-[E]
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3.3.2. Computation of substance-based income exclusion (if applicable)

3.3.2.1. Total amount of the substance-based income exclusion

Payroll carve-out		Tangible assets carve-out		Total
1. Relevant eligible payroll costs of eligible employees performing activities in the jurisdiction	2. Application of relevant mark-up percentage for the reporting fiscal year	3. Carrying value of relevant eligible tangible assets located in the jurisdiction	4. Application of relevant mark-up percentage for the reporting fiscal year	5. Substance-based income exclusion
[A]	[B]	[C]	[D]	[E]=[A]x[B]+[C]x[D]

3.3.2.2. Allocation of eligible payroll costs and carrying value of eligible tangible assets to permanent establishments for purposes of the substance-based income exclusion

1. Relevant eligible payroll costs	2. Carrying value of relevant eligible tangible assets	3. Jurisdiction of permanent establishments	4. Relevant eligible payroll costs allocated to permanent establishments	5. Carrying value of relevant eligible tangible assets allocated to permanent establishments

3.3.2.3. Allocation of eligible payroll costs and carrying value of eligible tangible assets of a flow-through entity for purposes of the substance-based income exclusion

1. Relevant eligible payroll costs	2. Carrying value of relevant eligible tangible assets	3. Jurisdiction of constituent entity owners (or members of joint venture group)	4. Relevant eligible payroll costs allocated to constituent entity owner (or excluded)	5. Carrying value of relevant eligible tangible assets allocated to constituent entity owner (or excluded)

3.3.3. Additional current top-up tax

3.3.3.1. Additional top-up tax other than in case of a net qualifying loss in the Reporting fiscal year

1. Relevant Articles	2. Relevant year	3. As previously reported or recalculated	4. Net qualifying income/loss	5. Adjusted covered taxes	6. effective tax rate	7. Excess profit	8. Top-up tax percentage	9. Top-up tax	10. Additional top-up tax

	Prior fiscal year X	a. Previously reported							
		b. Recalculated							

3.3.3.2. Additional top-up tax in case of a net qualifying loss for the Reporting fiscal year

1.	Adjusted covered taxes for the jurisdiction (if negative)	[A]
2.	Qualifying loss for the jurisdiction	[B]
3.	Expected adjusted covered taxes	$[C]=[B] \times 15\%$
4.	Additional top-up tax	$[D]=[C]-[A]$

3.3.4. *Qualified domestic top-up tax*

1.	Financial accounting standard	
2.	Qualified domestic top-up tax amount payable	
3.	Qualified domestic top-up tax minimum tax rate (if higher than 15%)	
4.	Basis for the blending of income and taxes (if different from the IIR rules)	
5.	Currency used (if different from consolidated financial statement presentation currency)	
6.	Substance-based income exclusion available?	Yes/No
7.	De-minimis available?	Yes/No

3.4. Top-up tax allocation and attribution (if any)

3.4.1. Application of the IIR in respect of this jurisdiction

1. Group entity allocated top-up tax	a. Low-taxed constituent entity or member of joint venture group (TIN)		
	b. Qualifying income of the low taxed constituent entity or member of joint venture group	[A]	
	c. Top-up tax of the low-taxed constituent entity or the member of the joint venture group	$[C] = [T] \times [A]/[A+B+etc]$	
2. Parent entities required to apply a qualified IIR	a. Parent entity (TIN)	[Parent entity 1]	
	b. Parent entity jurisdiction	Jurisdiction B	
	c. The amount of qualifying income attributable to ownership interests held by other owners	[D]	
	d. Parent entity's inclusion ratio	$[F] = ([A] - [D])/[A]$	
3. IIR top-up tax	a. Parent entity's allocable share of the top-up tax	$[G] = [C] \times [F]$	
	b. IIR offset	[H]	
	c. Top-up tax payable by parent entity	$[I] = [G] - [H]$	

3.4.2. Total UTPR top-up tax amount in respect of this jurisdiction

1. Low taxed constituent entity (or member of joint venture group) for which the reduction of UTPR to zero does not apply (TIN)	
2. Top-up tax taken into account for calculating the total UTPR top-up tax for each low-taxed constituent entity	
3. Total UTPR top-up tax amount in respect of this jurisdiction	

3.4.3. Attribution of top-up tax under the UTPR

1. UTPR jurisdictions	2. UTPR top-up tax carry-forward	3. Number of employees	4. Net book value of tangible assets	5. UTPR percentage	6. UTPR top-up tax amount attributed for the reporting fiscal year	7. Additional cash tax expense incurred by constituent entities in UTPR jurisdiction	8. UTPR top-up tax left to be carried forward'
Total							