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**COUNCIL DIRECTIVE 2003/48/EC**  
**of 3 June 2003**  
**on taxation of savings income in the form of interest payments**  
(OJ L 157, 26.6.2003, p. 38)

Amended by:

		Official Journal		
		No	page	date
► <b><u>M1</u></b>	Council Directive 2004/66/EC of 26 April 2004	L 168	35	1.5.2004
► <b><u>M2</u></b>	Council Decision 2004/587/EC of 19 July 2004	L 257	7	4.8.2004
► <b><u>M3</u></b>	Council Directive 2006/98/EC of 20 November 2006	L 363	129	20.12.2006
► <b><u>M4</u></b>	Council Directive 2014/48/EU of 24 March 2014	L 111	50	15.4.2014

**COUNCIL DIRECTIVE 2003/48/EC****of 3 June 2003****on taxation of savings income in the form of interest payments**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,Having regard to the opinion of the European Parliament <sup>(2)</sup>,Having regard to the opinion of the European Economic and Social Committee <sup>(3)</sup>,

Whereas:

- (1) Articles 56 to 60 of the Treaty guarantee the free movement of capital.
- (2) Savings income in the form of interest payments from debt claims constitutes taxable income for residents of all Member States.
- (3) By virtue of Article 58(1) of the Treaty Member States have the right to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested, and to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation.
- (4) In accordance with Article 58(3) of the Treaty, the provisions of Member States' tax law designed to counter abuse or fraud should not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as established by Article 56 of the Treaty.
- (5) In the absence of any coordination of national tax systems for taxation of savings income in the form of interest payments, particularly as far as the treatment of interest received by non-residents is concerned, residents of Member States are currently often able to avoid any form of taxation in their Member State of residence on interest they receive in another Member State.
- (6) This situation is creating distortions in the capital movements between Member States, which are incompatible with the internal market.

<sup>(1)</sup> OJ C 270 E, 25.9.2001, p. 259.

<sup>(2)</sup> OJ C 47 E, 27.2.2003, p. 553.

<sup>(3)</sup> OJ C 48, 21.2.2002, p. 55.

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- (7) This Directive builds on the consensus reached at the Santa Maria da Feira European Council of 19 June 2000 and 20 June 2000 and the subsequent Ecofin Council meetings of 26 November 2000 and 27 November 2000, 13 December 2001 and 21 January 2003.
- (8) The ultimate aim of this Directive is to enable savings income in the form of interest payments made in one Member State to beneficial owners who are individuals resident in another Member State to be made subject to effective taxation in accordance with the laws of the latter Member State.
- (9) The aim of this Directive can best be achieved by targeting interest payments made or secured by economic operators established in the Member States to or for the benefit of beneficial owners who are individuals resident in another Member State.
- (10) Since the objective of this Directive cannot be sufficiently achieved by the Member States, because of the lack of any coordination of national systems for the taxation of savings income, and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.
- (11) The paying agent is the economic operator who pays interest to or secures the payment of interest for the immediate benefit of the beneficial owner.
- (12) In defining the notion of interest payment and the paying agent mechanism, reference should be made, where appropriate, to Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) <sup>(1)</sup>.
- (13) The scope of this Directive should be limited to taxation of savings income in the form of interest payments on debt claims, to the exclusion, *inter alia*, of the issues relating to the taxation of pension and insurance benefits.
- (14) The ultimate aim of bringing about effective taxation of interest payments in the beneficial owner's Member State of residence for tax purposes can be achieved through the exchange of information concerning interest payments between Member States.

<sup>(1)</sup> OJ L 375, 31.12.1985, p. 3. Directive as last amended by Directive 2001/108/EC of the European Parliament and of the Council (OJ L 41, 13.2.2002, p. 35).

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- (15) Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation<sup>(1)</sup> already provides a basis for Member States to exchange information for tax purposes on the income covered by this Directive. It should continue to apply to such exchanges of information in addition to this Directive insofar as this Directive does not derogate from it.
- (16) The automatic exchange of information between Member States concerning interest payments covered by this Directive makes possible the effective taxation of those payments in the beneficial owner's Member State of residence for tax purposes in accordance with the national laws of that State. It is therefore necessary to stipulate that Member States which exchange information pursuant to this Directive should not be permitted to rely on the limits to the exchange of information as set out in Article 8 of Directive 77/799/EEC.
- (17) In view of structural differences, Austria, Belgium and Luxembourg cannot apply the automatic exchange of information at the same time as the other Member States. During a transitional period, given that a withholding tax can ensure a minimum level of effective taxation, especially at a rate increasing progressively to 35 %, these three Member States should apply a withholding tax to the savings income covered by this Directive.
- (18) In order to avoid differences in treatment, Austria, Belgium and Luxembourg should not be obliged to apply automatic exchange of information before the Swiss Confederation, the Principality of Andorra, the Principality of Liechtenstein, the Principality of Monaco and the Republic of San Marino ensure effective exchange of information on request concerning payments of interest.
- (19) Those Member States should transfer the greater part of their revenue of this withholding tax to the Member State of residence of the beneficial owner of the interest.
- (20) Those Member States should provide for a procedure allowing beneficial owners resident for tax purposes in other Member States to avoid the imposition of this withholding tax by authorising their paying agent to report the interest payments or by presenting a certificate issued by the competent authority of their Member State of residence for tax purposes.
- (21) The Member State of residence for tax purposes of the beneficial owner should ensure the elimination of any double taxation of the interest payments which might result from the imposition of this withholding tax in accordance with the procedures laid down

<sup>(1)</sup> OJ L 336, 27.12.1977, p. 15. Directive as last amended by the 1994 Act of Accession.

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in this Directive. It should do so by crediting this withholding tax up to the amount of tax due in its territory and by reimbursing to the beneficial owner any excess amount of tax withheld. It may, however, instead of applying this tax credit mechanism, grant a refund of the withholding tax.

- (22) In order to avoid market disruption, this Directive should, during the transitional period, not apply to interest payments on certain negotiable debt securities.
- (23) This Directive should not preclude Member States from levying other types of withholding tax than that referred to in this Directive on interest arising in their territories.
- (24) So long as the United States of America, Switzerland, Andorra, Liechtenstein, Monaco, San Marino and the relevant dependent or associated territories of the Member States do not all apply measures equivalent to, or the same as, those provided for by this Directive, capital flight towards these countries and territories could imperil the attainment of its objectives. Therefore, it is necessary for the Directive to apply from the same date as that on which all these countries and territories apply such measures.
- (25) The Commission should report every three years on the operation of this Directive and propose to the Council any amendments that prove necessary in order better to ensure effective taxation of savings income and to remove undesirable distortions of competition.
- (26) This Directive respects the fundamental rights and principles which are recognised, in particular, by the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS DIRECTIVE:

## CHAPTER I

## INTRODUCTORY PROVISIONS

*Article 1***Aim**

1. The ultimate aim of the Directive is to enable savings income in the form of interest payments made in one Member State to beneficial owners who are individuals resident for tax purposes in another Member State to be made subject to effective taxation in accordance with the laws of the latter Member State.

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2. Member States shall take the necessary measures to ensure that the tasks necessary for the implementation of this Directive are carried out by paying agents and other economic operators established or, where relevant, having their place of effective management within their territory, irrespective of the place of establishment of the debtor of the claim producing the interest payment.

**▼M4***Article 1a***Definitions of certain terms**

For the purposes of this Directive:

- (a) ‘economic operator’ means a credit or financial institution, any other legal person, or natural person, which on a regular basis or occasionally makes or secures an interest payment within the meaning of this Directive while acting in the exercise of its professional activity;
- (b) ‘place of effective management’ of an entity, with or without legal personality, means the address where are taken key management decisions that are necessary for the conduct of the entity’s activity as a whole. Where such decisions are taken in more than one country or jurisdiction, the place of effective management shall be considered to be at the address where most of the key management decisions are taken relating to the assets producing interest payments within the meaning of this Directive;
- (c) ‘place of effective management’ of a trust or other legal arrangement means:
  - (i) the permanent address of the natural person who has the principal responsibility for the key management decisions relating to the assets of the legal arrangement, or in the case of a trust, the permanent address of the trustee. Where more than one natural person has such principal responsibility, the place of effective management shall be considered to be at the permanent address of the person who has the principal responsibility for most of the key management decisions relating to the assets producing interest payments within the meaning of this Directive; or
  - (ii) the address where the legal person which has the principal responsibility to manage the assets of the legal arrangement, or in the case of a trust, the trustee, takes the key management decisions relating to these assets. Where key management decisions are taken in more than one country or jurisdiction, the place of effective management shall be considered to be at the address where most of the key management decisions are taken relating to the assets producing interest payments within the meaning of this Directive;
- (d) ‘subject to effective taxation’ means that an entity or a legal arrangement is liable to tax on all its income, or on the part of its income attributable to its non-resident participants, including on any interest payment.

*Article 2***Definition of beneficial owner**

1. For the purposes of this Directive, and without prejudice to paragraphs 2 to 4, ‘beneficial owner’ means any individual who receives an interest payment or any individual for whom such a payment is secured, unless he provides evidence that it was not received or secured for his own benefit, that is to say that:

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- (a) he acts as a paying agent within the meaning of Article 4(1);
- (b) he acts on behalf of an entity, with or without legal personality, and discloses to the economic operator making or securing the interest payment the name, the legal form, the address of the place of establishment of the entity, and, if it is in a different country or jurisdiction, the address of the place of effective management of the entity;
- (c) he acts on behalf of a legal arrangement and discloses to the economic operator making or securing the interest payment the name if any, the legal form, the address of the place of effective management of the legal arrangement and the name of the legal or natural person referred to in point (c) of Article 1a; or
- (d) he acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner in accordance with Article 3(2).

2. Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where point (a), (b) or (c) of paragraph 1 does not apply to that individual, it shall take reasonable steps to establish the identity of the beneficial owner in accordance with Article 3(2). If the paying agent is unable to identify the beneficial owner, it shall treat the individual in question as the beneficial owner.

3. Where an economic operator who also comes within the scope of Article 2 of Directive 2005/60/EC of the European Parliament and of the Council<sup>(1)</sup>, makes an interest payment to, or secures such a payment for, an entity or a legal arrangement, which is not subject to effective taxation and which is established or has its place of effective management in a country or jurisdiction outside the territory referred to in Article 7 of this Directive and outside the territorial scope of agreements and arrangements providing for the same measures as or equivalent measures to those of this Directive, the second to fifth subparagraphs of this paragraph shall apply.

The payment shall be regarded as having been made to, or secured for, the immediate benefit of any individual, who is resident in a Member State other than that of the economic operator and is defined in Article 3(6) of Directive 2005/60/EC as the beneficial owner of the entity or legal arrangement. The identity of that individual shall be established in accordance with the customer due diligence measures provided for in Article 7 and Article 8(1)(b) of that Directive. That individual shall also be regarded as the beneficial owner for the purposes of this Directive.

For the purposes of the first subparagraph, the categories of entities and legal arrangements referred to in the indicative list of Annex I shall be considered to be not subject to effective taxation.

<sup>(1)</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

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The economic operator referred to in the first subparagraph shall establish the legal form and the place of establishment or, where relevant, the place of effective management of the entity or legal arrangement, by using the information disclosed by any individual acting on behalf of the entity or legal arrangement in particular in accordance with points (b) and (c) of paragraph 1, unless the economic operator has more reliable information available indicating that the received information is incorrect or not complete for the purposes of the application of this paragraph.

Where an entity or a legal arrangement does not fall within the categories referred to in Annex I or where it falls within those categories but claims to be subject to effective taxation, the economic operator referred to in the first subparagraph shall establish whether it is subject to effective taxation on the basis of facts that are generally acknowledged or on the basis of official documents presented by the entity or legal arrangement or available through customer due diligence measures taken in accordance with Directive 2005/60/EC.

4. Where an entity or a legal arrangement is considered to be a paying agent, upon receipt of an interest payment or upon securing of such payment in accordance with Article 4(2), the interest payment shall be deemed to accrue to the following individuals, who shall be regarded as beneficial owners for the purposes of this Directive:

- (a) any individual who is entitled to receive the income arising from the assets producing such payment, or who is entitled to receive other assets representing such payment when the entity or legal arrangement receives the payment or when the payment is secured on its behalf, in proportion to his entitlement to that income;
- (b) for any part of the income arising from the assets producing such payment, or of the other assets representing such payment, to which none of the individuals referred to in point (a) are entitled when the entity or legal arrangement receives the payment or when the payment is secured on its behalf, any individual who has directly or indirectly contributed to the assets of the entity or legal arrangement concerned, regardless of whether such individual is entitled to the assets or income of the entity or legal arrangement;
- (c) if none of the individuals referred to in point (a) or (b) are collectively or severally entitled to all of the income arising from the assets producing such payment, or to all the other assets representing such payment, at the time of receipt or securing of the interest payment, any individual, in proportion to his entitlement to that income, who, at a later date, becomes entitled to all or part of the assets producing the interest payment or to other assets representing such interest payment. The total amount that shall be deemed to accrue to such individual shall not exceed the amount of the interest payment received by or secured for the entity or legal arrangement, after deduction of any part that has been attributed in accordance with this paragraph to an individual referred to in point (a) or (b).



▼ **M4***Article 3***Identity and residence of beneficial owners**

1. Each Member State shall, within its territory, adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of Articles 8 to 12.

Such procedures shall comply with the minimum standards established in paragraphs 2 and 3.

2. The paying agent shall establish the identity of the beneficial owner on the basis of minimum standards which vary according to when relations between the paying agent and the beneficial owner are entered into, as follows:

- (a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of the name and address, by using the information at its disposal, in particular pursuant to the regulations in force in its State of establishment and to Directive 2005/60/EC;
- (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January 2004, the paying agent shall establish the identity of the beneficial owner, consisting of the name, address, date and place of birth and, in accordance with the list referred to in paragraph 4, the tax identification number or equivalent allocated by the Member State where the beneficial owner is resident for tax purposes. For contractual relations entered into, or transactions carried out in the absence of contractual relations, before 1 July 2015 information about date and place of birth is only required where no such tax identification number or equivalent is available.

The details referred to in point (b) of the first subparagraph shall be established on the basis of a passport or an official identity card or any other official identity document, where applicable as specified in the list referred to in paragraph 4, presented by the beneficial owner. Any such details which do not appear on these documents shall be established on the basis of any other documentary proof of identity presented by the beneficial owner.

3. Where the beneficial owner voluntarily presents a tax residence certificate issued by the competent authority of a country within the three years before the payment date or a later date when the payment is deemed to accrue to a beneficial owner, his residence shall be considered to be situated in that country. Failing this, his residence shall be considered to be situated in the country where he has his permanent address. The paying agent shall establish the permanent address of the beneficial owner on the basis of the following minimum standards:

- (a) for contractual relations entered into before 1 January 2004, the paying agent shall establish the current permanent address of the beneficial owner by using the best information at its disposal, in particular pursuant to the regulations in force in its State of establishment and to Directive 2005/60/EC;

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- (b) for contractual relations entered into, or transactions carried out in the absence of contractual relations, on or after 1 January 2004, the paying agent shall establish the current permanent address of the beneficial owner on the basis of the address resulting from the identification procedures set out in point (b) of the first subparagraph of paragraph 2 to be updated on the basis of the most recent documentation that is available to the paying agent.

In the situation referred to in point (b) of the first subparagraph, where beneficial owners present a passport or an official identity card or any other official identity document issued by a Member State and declare themselves to be resident in a third country, residence shall be established by means of a tax residence certificate issued within the three years before the payment date or a later date when the payment is deemed to accrue to a beneficial owner by the competent authority of the third country in which the beneficial owner claims to be resident. Failing the presentation of such a certificate, the Member State which issued the passport, official identity card or other official identity document shall be considered to be the country of residence. For beneficial owners about whom the paying agent has official documentation at its disposal proving that they have their residence for tax purposes in a country different from that of their permanent address because of the privileges linked to their diplomatic status or to other internationally agreed rules, residence shall be established by means of such official documentation available to the paying agent.

4. Each Member State allocating tax identification numbers or equivalent shall, by 31 December 2014, inform the Commission about the structure and format of these numbers as well as of the official documentation containing information on allocated identification numbers. Each Member State shall also inform the Commission if any changes in this respect occur. The Commission shall publish in the *Official Journal of the European Union* a compiled list of the information received.

*Article 4*

**Paying agents**

1. An economic operator established in a Member State who makes an interest payment to, or secures such a payment for, the immediate benefit of the beneficial owner shall be considered to be a paying agent for the purposes of this Directive.

For the purposes of this paragraph, it is irrelevant whether the economic operator concerned is the debtor or issuer of the claim or security which produces the income or the economic operator charged by the debtor or issuer or by the beneficial owner with paying the income or securing the payment of the income.

An economic operator established in a Member State shall also be considered to be a paying agent for the purposes of this Directive where the following conditions are met:

- (a) it makes an interest payment to, or secures such a payment for, another economic operator, including a permanent establishment or a subsidiary of the first economic operator, established outside

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the territory referred to in Article 7 and outside the territorial scope of agreements and arrangements providing for the same measures as or measures equivalent to those set out in this Directive; and

- (b) the first economic operator has reasons to believe, on the basis of available information, that the second economic operator will pay the income to, or secure such a payment for the immediate benefit of a beneficial owner who is an individual known by the first economic operator to be a resident of another Member State, having regard to Article 3.

Where the conditions referred to in points (a) and (b) of the first subparagraph are met, the payment made or secured by the first economic operator shall be regarded as having been made to, or secured for, the immediate benefit of the beneficial owner referred to in point (b) of that subparagraph.

2. An entity or a legal arrangement which has its place of effective management within a Member State and which is not subject to effective taxation under the general rules for direct taxation applicable either in that Member State, or in the Member State where it is established, or in any country or jurisdiction where it is otherwise resident for tax purposes, shall be considered to be a paying agent upon receipt of an interest payment or upon securing of such payment.

For the purposes of this paragraph, the categories of entities and legal arrangements referred to in the indicative list of Annex II shall be considered to be not subject to effective taxation.

Where an entity or a legal arrangement does not belong to any of the categories referred to in the indicative list of Annex II or where it is covered by that annex but claims to be subject to effective taxation, the economic operator shall establish whether it is subject to effective taxation on the basis of facts that are generally acknowledged or on the basis of official documents presented by the entity or legal arrangement or available through customer due diligence measures taken in accordance with Directive 2005/60/EC.

Any economic operator established in a Member State who makes an interest payment to, or secures such a payment for, an entity or a legal arrangement referred to in this paragraph and which has its place of effective management in a Member State other than the State where the economic operator is established, shall inform the competent authority of its Member State of establishment of the following, using the information indicated in the fourth subparagraph of Article 2(3) or other information available:

- (i) the name, if any, of the entity or legal arrangement;
- (ii) its legal form;
- (iii) its place of effective management;

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- (iv) the total amount of the interest payment, specified in accordance with Article 8, made to, or secured for, the entity or legal arrangement;
  
- (v) the date of the latest interest payment.

The individuals who shall be regarded as the beneficial owners of the interest payment made to or secured for the entities or legal arrangements referred to in the first subparagraph of this paragraph shall be determined in accordance with the rules provided for in Article 2(4). Where point (c) of Article 2(4) applies, the entity or legal arrangement shall, whenever an individual at a later date becomes entitled to the assets producing such interest payment or to other assets representing the interest payment, provide the competent authority of the Member State where it has its place of effective management with the information specified in the second subparagraph of Article 8(1). The entity or legal arrangement shall also inform its competent authority of any change to its place of effective management.

The obligations referred to in the fifth subparagraph shall remain for 10 years from the date of the last interest payment received or secured by the entity or legal arrangement or the last date that an individual became entitled to the assets producing such interest payment or to other assets representing the interest payment, whichever date is the later.

If an entity or a legal arrangement, in a case where point (c) of Article 2(4) applies, has changed its place of effective management to another Member State, the competent authority of the first Member State shall report the following information to the competent authority of the new Member State:

- (i) the amount of interest payment received by or secured for the entity or legal arrangement that is still not covered by past entitlements to the relevant assets;
  
- (ii) the date of the last interest payment received by or secured for the entity or legal arrangement or the last date that an individual became entitled to all or part of the assets producing such interest payment or to other assets representing the interest payment, whichever date is the later.

This paragraph shall not apply if the entity or legal arrangement provides evidence to the effect that it falls into one of the following cases:

- (a) it is an undertaking for collective investment or other collective investment fund or scheme as defined in point (d)(i) and (iii) or point (e)(i) and (iii) of the first subparagraph of Article 6(1);
  
- (b) it is an institution providing pension or insurance services or an undertaking mandated by such an institution to manage its assets;

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- (c) it is acknowledged under the procedures applicable in the Member State where it is resident for tax purposes or has its place of effective management that it is to be exempt from effective taxation under the general rules for direct taxation because it serves exclusively charitable purposes for the public benefit;
- (d) it constitutes a shared beneficial ownership for which the economic operator making or securing the payment has established the identity and residence of all the beneficial owners in accordance with Article 3 and the economic operator therefore is the paying agent in accordance with paragraph 1 of this Article.

3. An entity referred to in paragraph 2 which is similar to an undertaking for collective investment or collective investment fund or scheme referred to in point (a) of the eighth subparagraph of paragraph 2 shall have the option of being treated for the purposes of this Directive as such an undertaking, investment fund or scheme.

Where an entity exercises the option referred to in the first subparagraph of this paragraph, the Member State in which it has its place of effective management shall issue a certificate to that effect. The entity shall present that certificate to the economic operator making or securing the interest payment. The economic operator shall in that case be exempted from the obligations set in the fourth subparagraph of paragraph 2.

Member States shall lay down the detailed rules concerning the option referred to in the first subparagraph of this paragraph for entities which have their place of effective management in their territory, with a view to ensuring the effective application of this Directive.

**▼ B***Article 5***Definition of competent authority**

For the purposes of this Directive, ‘competent authority’ means:

- (a) for Member States, any of the authorities notified by the Member States to the Commission;
- (b) for third countries, the competent authority for the purposes of bilateral or multilateral tax conventions or, failing that, such other authority as is competent to issue certificates of residence for tax purposes.

**▼ M4***Article 6***Definition of interest payment**

1. For the purposes of this Directive, ‘interest payment’ means:
  - (a) interest paid or credited to an account, relating to debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures; penalty charges for late payments shall not be regarded as interest payments;

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- (b) any income paid or realised, or credited to an account, relating to securities of any kind, except where the income is directly considered to be an interest payment in accordance with point (a), (c), (d) or (e), and where:
  - (i) the conditions of a return of capital defined at the issuing date include a commitment towards the investor that he receives, at the end of the term, at least 95 % of the capital invested; or
  - (ii) the conditions defined at the issuing date provide for a link of at least 95 % of the income from the security to interest or income of the kinds referred to in point (a), (c), (d) or (e);
- (c) interest accrued or capitalised at the sale, refund or redemption of the debt claims referred to in point (a) and any income accrued or capitalised at the sale, refund or redemption of the securities referred to in point (b);
- (d) income deriving from payments referred to in point (a), (b) or (c) of this paragraph either directly or indirectly, including via an entity or a legal arrangement referred to in Article 4(2), if distributed by any of the following:
  - (i) undertakings for collective investment or other collective investment funds or schemes, that either are registered as such in accordance with the law of any of the Member States or of the countries of the European Economic Area which do not belong to the Union, or have fund rules or instruments of incorporation governed by the law relating to collective investment funds or schemes of one of these States or countries. This applies irrespective of the legal form of such undertakings, funds or schemes and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of their shares or units;
  - (ii) entities having exercised the option under Article 4(3);
  - (iii) any collective investment fund or scheme established outside the territory referred to in Article 7 and outside the European Economic Area. This applies irrespective of the legal form of that fund or scheme and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of its shares or units;
- (e) income realised upon the sale, refund or redemption of shares or units in the following undertakings, entities, investment funds or schemes, if they invest, directly or indirectly via other such undertakings, funds or schemes, or via entities or legal arrangements referred to in Article 4(2), more than 40 % of their assets in debt claims as referred to in point (a) of this paragraph or in securities as referred to in point (b) thereof:

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- (i) undertakings for collective investment or other collective investment funds or schemes that either are registered as such in accordance with the law of any of the Member States or of the countries of the European Economic Area which do not belong to the Union, or have fund rules or instruments of incorporation governed by the law relating to collective investment funds or schemes of one of these States or countries. This applies irrespective of the legal form of such undertakings, funds or schemes and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of their shares or units;
- (ii) entities having exercised the option under Article 4(3);
- (iii) any collective investment fund or scheme established outside the territory referred to in Article 7 and outside the European Economic Area. This applies irrespective of the legal form of that fund or scheme and irrespective of any restriction to a limited group of investors of the purchase, sale or redemption of its shares or units.

For the purpose of this point, assets which the undertakings or entities or investment funds or schemes are required to hold as collateral under the terms of their agreements, contracts or other legal documentation in order to enable them to meet their investment objectives, and to which the investor is not a party and has no legal rights, are not regarded as debt claims as referred to in point (a) or as securities as referred to in point (b);

- (f) benefits from a life insurance contract, if:
  - (i) the contract contains a guarantee of income return; or
  - (ii) the actual performance of the contract is at more than 40 % linked to interest or income referred to in points (a), (b), (c), (d) and (e).

For the purpose of this point the excess of any repayment or partial repayment made by the life insurer before the maturity of the life insurance contract as well as the excess of any amount paid out by the life insurer over the sum of the payments made to the life insurer under the same life insurance contract, shall be considered to be a benefit from a life insurance contract. In the case of assignment, in whole or in part, of a life insurance to a third party, the excess of the value of the contract conferred over the sum of all the payments made to the life insurer shall also be considered to be a benefit from a life insurance contract. A benefit from a life insurance contract which solely provides for a pension, or a fixed annuity, paid for at least five years, shall be considered as such only if it is a repayment or an assignment to a third party that is made before the end of the five-year period. An amount paid out solely in respect of death, disability or illness shall not be considered to be a benefit from a life insurance contract.

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However, Member States shall have the option of including income mentioned under point (e) of the first subparagraph in the definition of interest payment, for undertakings for collective investment or other collective investment funds or schemes, that either are registered in accordance with their rules or have fund rules or instruments of incorporation governed by their law, only to the extent that such income corresponds to gains directly or indirectly deriving from interest payments within the meaning of point (a), (b) or (c) of that subparagraph.

As regards point (f)(ii) of the first subparagraph, a Member State shall have the option of including in the definition of interest payment benefits regardless of the composition of performance, if paid by or obtained from a life insurer established within that State.

Where a Member State exercises one or both of the options referred to in the second and third subparagraphs, it shall notify the Commission thereof. The Commission shall publish in the *Official Journal of the European Union* the fact that the option has been exercised and, with effect from the date of such publication, the exercise of the option shall be binding on the other Member States.

2. As regards point (b) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the amount of the income that is paid, realised or credited, the total amount of the payment shall be considered to be an interest payment.

As regards point (c) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the amount of the interest or income that is accrued or capitalised at the sale, refund or redemption, the total amount of the payment shall be considered to be an interest payment.

As regards points (d) and (e) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the proportion of the income which derives from interest payments within the meaning of point (a), (b) or (c) of that subparagraph, the total amount of the income shall be considered to be an interest payment.

As regards point (f) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the amount of the benefit from a life insurance contract, the total amount of the payment shall be considered to be an interest payment.

3. As regards point (e) of the first subparagraph of paragraph 1, where a paying agent has no information concerning the percentage of the assets invested in debt claims or the relevant securities, or in shares or units as defined in that point, that percentage shall be considered to be above 40 %. Where he cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

As regards point (f)(ii) of the first subparagraph of paragraph 1, when the paying agent has no information concerning the percentage of performance that is linked to interest payments within the meaning of point (a), (b), (c), (d) or (e) of that subparagraph, that percentage shall be considered to be above 40 %.



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4. Where an interest payment as defined in paragraph 1 is made to an entity or a legal arrangement referred to in Article 4(2) or credited to an account held by such entity or legal arrangement, it shall be deemed to accrue to an individual referred to in Article 2(4). In the case of an entity, this applies only if the entity has not exercised the option provided for under Article 4(3).

5. As regards points (c) and (e) of the first subparagraph of paragraph 1, Member States shall have the option of requiring paying agents in their territory to annualise the interest or other relevant income over a period of time which may not exceed one year, and of treating such annualised interest or other relevant income as an interest payment even if no sale, redemption or refund occurs during that period.

6. By way of derogation from points (d) and (e) of the first subparagraph of paragraph 1, Member States shall have the option of excluding from the definition of interest payment any income referred to in those provisions distributed by undertakings or entities or investment funds or schemes having fund rules or instruments of incorporation governed by their law where the direct or indirect investment of such undertakings, entities, funds or schemes in debt claims referred to in point (a) of that subparagraph or in securities referred to in point (b) of that subparagraph has not exceeded 15 % of their assets.

By way of derogation from paragraph 4, Member States shall have the option of excluding from the definition of interest payment in paragraph 1 those interest payments which are made or credited to an account of an entity or a legal arrangement, which is referred to in Article 4(2) and which has its place of effective management within their territory, where the direct or indirect investment of such an entity or a legal arrangement in debt claims referred to in point (a) of the first subparagraph of paragraph 1 or in securities referred to in point (b) of that subparagraph has not exceeded 15 % of its assets. In the case of an entity, this applies only if the entity has not exercised the option provided for under Article 4(3).

Where a Member State exercises one or both of the options referred to in the first and second subparagraphs, it shall notify the Commission thereof. The Commission shall publish in the *Official Journal of the European Union* the fact that the option has been exercised and, with effect from the date of such publication, the exercise of the option shall be binding on the other Member States.

7. The 40 % thresholds referred to in points (e) and (f)(ii) of the first subparagraph of paragraph 1 and in paragraph 3 shall, from 1 January 2016, be 25 %.

8. The percentages referred to in point (e) of the first subparagraph of paragraph 1 and in paragraph 6 shall be determined by reference to the investment policy, or by reference to the investment strategy and objectives, laid down in documentation which governs the operation of the undertakings or entities or investment funds or schemes concerned.

For the purpose of this paragraph, documentation includes:

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- (a) the fund rules or instruments of incorporation of the undertakings or entities or investment funds or schemes concerned;
- (b) any agreement, contract or other legal documentation entered into by the undertakings or entities or investment funds or schemes concerned which is made available to an economic operator; and
- (c) any prospectus or similar document issued by or on behalf of the undertakings or entities or investment funds or schemes concerned which is made available to its investors.

Where the documentation does not define an investment policy or investment strategy and objectives, those percentages shall be determined by reference to the actual composition of the assets of the undertakings or entities or investment funds or schemes concerned, as resulting from the average of assets at the beginning, or at the date of their first semi-annual report, and at the end of their last accounting period before the date when the interest payment is made or secured by the paying agent to the beneficial owner. For newly constituted undertakings or entities or investment funds or schemes, such actual composition shall result from the average of assets at the starting date and at the date of the first evaluation of assets as set out in the documentation that governs the operation of the undertakings, entities, funds or schemes concerned.

The composition of the assets shall be measured in accordance with the rules applicable in the Member State or in a country of the European Economic Area which does not belong to the Union, in which an undertaking for collective investment or other collective investment fund or scheme is registered as such or under the law of which its rules or instruments of incorporation are governed. The composition measured as such shall be binding on other Member States.

9. Income referred to in point (b) of the first subparagraph of paragraph 1 shall be considered to be an interest payment only to the extent to which the securities producing that income were first issued on or after 1 July 2014. The securities issued before that date shall not be taken into account for the percentages referred to in point (e) of that subparagraph and in paragraph 6.

10. Benefits from a life insurance contract shall be considered to be an interest payment in accordance with point (f) of the first subparagraph of paragraph 1 only to the extent that the life insurance contract giving rise to such benefits was first subscribed on or after 1 July 2014.

11. Member States shall have the option to consider income referred to in point (e)(i) of the first subparagraph of paragraph 1, realised upon the sale, refund or redemption of shares or units in incorporated undertakings for collective investment which are not UCITS authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council<sup>(1)</sup>, to be an interest payment only to the extent to which it accrued to those undertakings on or after 1 July 2014.

<sup>(1)</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

**▼B***Article 7***Territorial scope**

This Directive shall apply to interest paid by a paying agent established within the territory to which the Treaty applies by virtue of Article 299 thereof.

## CHAPTER II

**EXCHANGE OF INFORMATION****▼M4***Article 8***Information reporting by the paying agent**

1. Where the beneficial owner is resident in a Member State other than that in which the paying agent is established, the minimum amount of information to be reported by the paying agent to the competent authority of its Member State of establishment shall consist of:

- (a) the identity and residence of the beneficial owner established in accordance with Article 3 or, in cases of shared beneficial ownership, the identity and residence of all beneficial owners who fall within the scope of Article 1(1);
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, identification of the debt claim giving rise to the interest payment or of the life insurance contract, security or share or unit giving rise to that payment;
- (d) information concerning the interest payment in accordance with paragraph 2.

Where the beneficial owner is resident in a Member State other than that where the paying agent according to Article 4(2) has its place of effective management, such a paying agent shall provide the competent authority of the Member State where it has its place of effective management, with the information specified in points (a) to (d) of the first subparagraph of this paragraph. In addition, such a paying agent shall report the following:

- (i) the total amount of its interest payments received or secured that is deemed to accrue to its beneficial owners;
- (ii) where an individual becomes a beneficial owner according to point (c) of Article 2(4), the amount that is deemed to accrue to that individual and the date of such deemed accrual.

2. The minimum amount of information concerning interest payment to be reported by the paying agent shall distinguish between the following categories of the interest payment and indicate:

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- (a) in the case of an interest payment within the meaning of point (a) of the first subparagraph of Article 6(1): the amount of interest paid or credited;
- (b) in the case of an interest payment within the meaning of point (b) of the first subparagraph of Article 6(1): either the amount of any income paid, realised or credited or the total amount of the payment;
- (c) in the case of an interest payment within the meaning of point (c) or (e) of the first subparagraph of Article 6(1): either the amount of interest or income referred to in those points or the total amount of the proceeds from the sale, redemption or refund;
- (d) in the case of an interest payment within the meaning of point (d) of the first subparagraph of Article 6(1): either the amount of income referred to in that point or the total amount of the distribution;
- (e) in the case of an interest payment within the meaning of Article 6(4): the amount of interest attributable to each of the beneficial owners who fall within the scope of Article 1(1);
- (f) where a Member State exercises the option under Article 6(5): the amount of annualised interest or other relevant income;
- (g) in the case of an interest payment within the meaning of point (f) of the first subparagraph of Article 6(1): either the benefit calculated in accordance with that provision or the total amount of the payment. If, in the case of assignment to a third party, the paying agent has no information about the value conferred: the sum of the payments made to the life insurer under the life insurance contract.

The paying agent shall inform the competent authority of the Member State where it is established or, in the case of a paying agent referred to in Article 4(2), it shall inform the competent authority of the Member State where it has its place of effective management when it reports the total amounts in accordance with points (b), (c), (d) and (g) of the first subparagraph of this paragraph.

3. In the case of shared beneficial ownership, the paying agent shall inform the competent authority of its Member State of establishment or, in the case of a paying agent referred to in Article 4(2), it shall inform the competent authority of the Member State where it has its place of effective management whether the amount reported for each beneficial owner is the full amount attributable to the beneficial owners collectively, the actual share pertaining to the beneficial owner concerned or an equal share.

4. Notwithstanding paragraph 2, Member States may allow paying agents to report only the following:

- (a) in the case of interest payments within the meaning of point (a), (b) or (d) of the first subparagraph of Article 6(1): the total amount of interest or income;

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- (b) in the case of interest payments within the meaning of point (c) or (e) of the first subparagraph of Article 6(1): the total amount of the proceeds from the sale, redemption or refund related to such payments;
- (c) in the case of interest payments within the meaning of point (f) of the first subparagraph of Article 6(1): either the benefits about which the competent authority of the Member State of residence of the beneficial owner has not otherwise been informed by the paying agent, either directly or via its fiscal representative or the competent authority of another Member State, pursuant to any legislative provision different from those necessary to implement this Directive, or the total amount paid out under life insurance contracts generating such payments.

The paying agent shall inform whether it reports the total amounts according to points (a), (b) and (c) of the first subparagraph of this paragraph.

**▼B***Article 9***Automatic exchange of information**

1. The competent authority of the Member State of the paying agent shall communicate the information referred to in Article 8 to the competent authority of the Member State of residence of the beneficial owner.

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1a. The competent authority of the Member State where the economic operator is established shall communicate the information referred to in the fourth subparagraph of Article 4(2) to the competent authority of another Member State where the entity or legal arrangement has its place of effective management.

1b. Where a paying agent within the meaning of Article 4(2) has changed its place of effective management to another Member State, the competent authority of the first Member State shall communicate the information referred to in the seventh subparagraph of Article 4(2), to the competent authority of the new Member State.

2. The communication of information shall be automatic and shall take place at least once a year, within six months following the end of the tax year of the Member State of the paying agent or economic operator, and shall cover the following events that have taken place during that year:

- (i) all interest payments;
- (ii) all occasions when individuals have become beneficial owners according to Article 2(4);
- (iii) all changes of place of effective management of a paying agent referred to in Article 4(2).

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3. The provisions of Directive 77/799/EEC shall apply to the exchange of information under this Directive, provided that the provisions of this Directive do not derogate therefrom. However, Article 8 of Directive 77/799/EEC shall not apply to the information to be provided pursuant to this chapter.

## CHAPTER III

## TRANSITIONAL PROVISIONS

*Article 10***Transitional period****▼M4**

1. During a transitional period starting on the date referred to in Article 17(2) and (3) and subject to Article 13(1), Luxembourg and Austria shall not be required to apply the provisions of Chapter II.

They shall, however, receive information from the other Member States in accordance with Chapter II.

During the transitional period, the aim of this Directive shall be to ensure minimum effective taxation of savings in the form of interest payments made in one Member State to beneficial owners who are individuals resident for tax purposes in another Member State.

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2. The transitional period shall end at the end of the first full fiscal year following the later of the following dates:

- the date of entry into force of an agreement between the European Community, following a unanimous decision of the Council, and the last of the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra, providing for the exchange of information upon request as defined in the OECD Model Agreement on Exchange of Information on Tax Matters released on 18 April 2002 (hereinafter the 'OECD Model Agreement') with respect to interest payments, as defined in this Directive, made by paying agents established within their respective territories to beneficial owners resident in the territory to which the Directive applies, in addition to the simultaneous application by those same countries of a withholding tax on such payments at the rate defined for the corresponding periods referred to in Article 11(1),
- the date on which the Council agrees by unanimity that the United States of America is committed to exchange of information upon request as defined in the OECD Model Agreement with respect to interest payments, as defined in this directive, made by paying agents established within its territory to beneficial owners resident in the territory to which the Directive applies.

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3. At the end of the transitional period, Luxembourg and Austria shall be required to apply the provisions of Chapter II and they shall cease to apply the withholding tax and the revenue sharing provided for in Articles 11 and 12. If, during the transitional period, Luxembourg or Austria elects to apply the provisions of Chapter II, it shall no longer apply the withholding tax and the revenue sharing provided for in Articles 11 and 12.

**▼B***Article 11***Withholding tax****▼M4**

1. During the transitional period referred to in Article 10, where the beneficial owner is resident in a Member State other than that in which the paying agent is established, or, in the case of a paying agent referred to in Article 4(2), where such a paying agent has its place of effective management, Luxembourg and Austria shall levy a withholding tax at a rate of 15 % during the first three years of the transitional period, 20 % for the subsequent three years and 35 % thereafter.

2. The paying agent shall levy withholding tax as follows:

- (a) in the case of an interest payment within the meaning of point (a) of the first subparagraph of Article 6(1): on the amount of interest paid or credited;
- (b) in the case of an interest payment within the meaning of point (b) of the first subparagraph of Article 6(1): on the amount of any income paid, realised or credited;
- (c) in the case of an interest payment within the meaning of point (c) or (e) of the first subparagraph of Article 6(1): either on the amount of interest or income referred to in those points or by a levy of equivalent effect to be borne by the beneficial owner on the full amount of the proceeds from the sale, redemption or refund;
- (d) in the case of an interest payment within the meaning of point (d) of the first subparagraph of Article 6(1): on the amount of income referred to in that point;
- (e) in the case of an interest payment within the meaning of Article 6(4): on the amount of interest attributable to each of the beneficial owners who fall within the scope of Article 1(1). The total amount on which tax is levied shall not exceed the amount of the interest payment received or secured by the entity or legal arrangement;
- (f) where a Member State exercises the option under Article 6(5): on the amount of annualised interest or other relevant income;

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- (g) in the case of an interest payment within the meaning of point (f) of the first subparagraph of Article 6(1): on the benefit calculated in accordance with that provision. Member States may allow paying agents to levy withholding tax only on the benefits about which the competent authority of the Member State of residence of the beneficial owner has not yet been informed, by the paying agent or its fiscal representatives pursuant to any legislative provision different from those necessary to implement this Directive.

When transferring the revenue of the withholding tax to the competent authority, the paying agent shall inform it of the number of beneficial owners concerned by the levying of the withholding tax classified according to their respective Member States of residence.

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3. For the purposes of ►M4 points (a), (b) and (c) of paragraph 2 ◀, withholding tax shall be levied pro rata to the period of holding of the debt claim by the beneficial owner. When the paying agent is unable to determine the period of holding on the basis of information in its possession, it shall treat the beneficial owner as having held the debt claim throughout its period of existence unless he provides evidence of the date of acquisition.

4. The imposition of withholding tax by the Member State of the paying agent shall not preclude the Member State of residence for tax purposes of the beneficial owner from taxing the income in accordance with its national law, subject to compliance with the Treaty.

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5. During the transitional period, Member States levying withholding tax may provide that an economic operator making an interest payment to, or securing such a payment for, an entity or a legal arrangement referred to in Article 4(2), which has its place of effective management in another Member State, shall be considered to be the paying agent in place of the entity or legal arrangement and shall levy the withholding tax on that interest, unless the entity or legal arrangement has formally agreed to its name if any, its legal form, its place of effective management and the total amount of interest paid to it or secured for it being communicated in accordance with the fourth subparagraph of Article 4(2).

**▼ B***Article 12***Revenue sharing**

1. Member States levying withholding tax in accordance with Article 11(1) shall retain 25 % of their revenue and transfer 75 % of the revenue to the Member State of residence of the beneficial owner of the interest.

2. Member States levying withholding tax in accordance with Article 11(5) shall retain 25 % of the revenue and transfer 75 % to the other Member States proportionate to the transfers carried out pursuant to paragraph 1 of this Article.



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3. Such transfers shall take place at the latest within a period of six months following the end of the tax year of the Member State of the paying agent in the case of paragraph 1, or that of the Member State of the economic operator in the case of paragraph 2.

4. Member States levying withholding tax shall take the necessary measures to ensure the proper functioning of the revenue-sharing system.

**▼M4***Article 13***Exceptions to the withholding tax procedure**

1. Member States levying withholding tax in accordance with Article 11 shall provide for the following procedures in order to ensure that a beneficial owner may request that no tax be withheld:

- (a) a procedure which allows the beneficial owner expressly to authorise the paying agent to report information in accordance with Chapter II, such authorisation covering all interest payments attributable to the beneficial owner by that paying agent; in such a case, Article 9 shall apply;
- (b) a procedure which ensures that withholding tax shall not be levied where the beneficial owner presents to his paying agent a certificate drawn up in his name by the competent authority of his Member State of residence for tax purposes in accordance with paragraph 2.

2. At the request of the beneficial owner, the competent authority of his Member State of residence for tax purposes shall issue a certificate indicating:

- (a) the name, address, tax identification number or equivalent, and the date and place of birth of the beneficial owner;
- (b) the name and address of the paying agent;
- (c) the account number of the beneficial owner or, where there is none, the identification of the security.

Such certificate shall be valid for a period not exceeding three years. It shall be issued to any beneficial owner who requests it, within two months following such request.

**▼B***Article 14***Elimination of double taxation**

1. The Member State of residence for tax purposes of the beneficial owner shall ensure the elimination of any double taxation which might result from the imposition of the withholding tax referred to in Article 11, in accordance with the provisions of paragraphs 2 and 3.

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2. ►**M4** If an interest payment attributed to a beneficial owner has been subject to withholding tax in the Member State of the paying agent, the Member State of residence for tax purposes of the beneficial owner shall grant him a tax credit equal to the amount of the tax withheld in accordance with its national law. ◀ Where this amount exceeds the amount of tax due in accordance with its national law, the Member State of residence for tax purposes shall repay the excess amount of tax withheld to the beneficial owner.

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3. If, in addition to the withholding tax referred to in Article 11, an interest payment attributed to a beneficial owner has been subject to any other type of withholding tax and the Member State of residence for tax purposes of the beneficial owner grants a tax credit for such withholding tax in accordance with its national law or double taxation conventions, such other withholding tax shall be credited before the procedure set out in paragraph 2 is applied.

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4. The Member State of residence for tax purposes of the beneficial owner may replace the tax credit mechanism referred to in paragraphs 2 and 3 by a refund of the withholding tax referred to in Article 11.

*Article 15***Negotiable debt securities**

1. During the transitional period referred to in Article 10, but until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities which have been first issued before 1 March 2001 or for which the original issuing prospectuses have been approved before that date by the competent authorities within the meaning of Council Directive 80/390/EEC <sup>(1)</sup> or by the responsible authorities in third countries shall not be considered as debt claims within the meaning of Article 6(1)(a), provided that no further issues of such negotiable debt securities are made on or after 1 March 2002. However, should the transitional period referred to in Article 10 continue beyond 31 December 2010, the provisions of this Article shall only continue to apply in respect of such negotiable debt securities:

- which contain gross-up and early redemption clauses and
- where the paying agent as defined in Article 4 is established in a Member State applying the withholding tax referred to in Article 11 and that paying agent pays interest to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in another Member State.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the ►**M4** Annex III ◀, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 6(1)(a).

<sup>(1)</sup> OJ L 100, 17.4.1980, p. 1. Directive repealed by Directive 2001/34/EC of the European Parliament and of the Council (OJ L 184, 6.7.2001, p. 1).

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If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the second subparagraph, such further issue shall be considered a debt claim within the meaning of Article 6(1)(a).

2. Nothing in this Article shall prevent Member States from taxing the income from the negotiable debt securities referred to in paragraph 1 in accordance with their national laws.

## CHAPTER IV

## MISCELLANEOUS AND FINAL PROVISIONS

*Article 16***Other withholding taxes**

This Directive shall not preclude Member States from levying other types of withholding tax than that referred to in Article 11 in accordance with their national laws or double-taxation conventions.

*Article 17***Transposition**

1. Before 1 January 2004 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

2. Member States shall apply these provisions from ►**M2** 1 July 2005 ◀ provided that:

- (i) the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and the Principality of Andorra apply from that same date measures equivalent to those contained in this Directive, in accordance with agreements entered into by them with the European Community, following unanimous decisions of the Council;
- (ii) all agreements or other arrangements are in place, which provide that all the relevant dependent or associated territories (the Channel Islands, the Isle of Man and the dependent or associated territories in the Caribbean) apply from that same date automatic exchange of information in the same manner as is provided for in Chapter II of this Directive, (or, during the transitional period defined in Article 10, apply a withholding tax on the same terms as are contained in Articles 11 and 12).

3. The Council shall decide, by unanimity, at least six months before 1 January 2005, whether the condition set out in paragraph 2 will be met, having regard to the dates of entry into force of the relevant

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measures in the third countries and dependent or associated territories concerned. If the Council does not decide that the condition will be met, it shall, acting unanimously on a proposal by the Commission, adopt a new date for the purposes of paragraph 2.

4. When Member States adopt the provisions necessary to comply with this Directive, 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.

5. Member States shall forthwith inform the Commission thereof and communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive and a correlation table between this Directive and the national provisions adopted.

*Article 18***Review**

►M4 The Commission shall report to the Council every three years on the operation of this Directive on the basis of the statistics listed in Annex IV, which shall be provided by each Member State to the Commission. ◀ On the basis of these reports, the Commission shall, where appropriate, propose to the Council any amendments to the Directive that prove necessary in order better to ensure effective taxation of savings income and to remove undesirable distortions of competition.

**▼M4***Article 18a***Implementing measures**

1. The Commission may, acting in accordance with the procedure referred to in Article 18b(2), adopt measures for the following purposes:

- (a) specifying the data providers which may be used by paying agents for obtaining the information necessary for the proper treatment, for the purposes of points (b), (d) and (e) of the first subparagraph of Article 6(1);
- (b) establishing common formats and practical arrangements necessary for the electronic exchange of information referred to in Article 9;
- (c) establishing common forms for certificates and other documents that facilitate the application of this Directive, in particular for the documents issued in Member States levying withholding tax, which are used for the purposes of Article 14 by the Member State of residence for tax purposes of the beneficial owner.

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2. The Commission shall update the list set out in Annex III at the request of the Member States directly concerned.

*Article 18b*

**Committee**

1. The Commission shall be assisted by the Committee on Administrative Cooperation for Taxation ('the Committee').
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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*Article 19*

**Entry into force**

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

*Article 20*

**Addressees**

This Directive is addressed to the Member States.

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## ANNEX I

**Indicative list of categories of entities and legal arrangements which are considered to be not subject to effective taxation, for the purposes of Article 2(3)**

1. Entities and legal arrangements whose place of establishment or place of effective management is in a country or jurisdiction outside the territorial scope of this Directive as defined in Article 7 and which is different from those listed in Article 17(2):

Countries and jurisdictions	Categories of entities and legal arrangements
Antigua and Barbuda	International business company
Anjouan (Comores)	Trust, governed by local or foreign law International business company
The Bahamas	Trust, governed by local or foreign law Foundation International business company
Bahrain	Financial trust, governed by local or foreign law
Barbados	Trust, governed by local or foreign law International business company International Society with Restricted Liability
Belize	Trust, governed by local or foreign law International business company
Bermuda	Trust, governed by local or foreign law Exempt company
Brunei	Trust, governed by local or foreign law International business company International trust International Limited Partnership
Cook Islands	Trust, governed by local or foreign law International trust International company International partnership
Costa Rica	Trust, governed by local or foreign law Company

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Countries and jurisdictions	Categories of entities and legal arrangements
Djibouti	Exempt company Trust, governed by foreign law
Dominica	Trust, governed by local or foreign law International business company
Fiji	Trust, governed by local or foreign law
French Polynesia	<i>Société</i> (Company) <i>Société de personnes</i> (Partnership) <i>Société en participation</i> (Joint venture) Trust, governed by foreign law
Grenada	International business company Trust, governed by local or foreign law
Guam	Company Sole proprietorship Partnership Trust, governed by foreign law
Guatemala	Trust, governed by local or foreign law <i>Fundación</i> (Foundation)
Hong Kong	Trust, governed by local or foreign law Private Limited Company
Kiribati	Trust, governed by local or foreign law
Labuan (Malaysia)	Offshore company Malaysian offshore bank, Offshore limited partnership Offshore trust
Lebanon	Companies benefiting from the Offshore company regime Trust, governed by foreign law
Liberia	Non-resident company Trust, governed by local or foreign law
Macao	Trust, governed by local or foreign law <i>Fundação</i> (Foundation)
Maldives	Company Partnership Trust, governed by foreign law
Northern Marianas Islands	Foreign sales corporation Offshore banking corporation Trust, governed by foreign law

## ▼ M4

Countries and jurisdictions	Categories of entities and legal arrangements
Marshall Islands	Trust, governed by local or foreign law International business company
Mauritius	Trust, governed by local or foreign law Global business company categories 1 and 2
Micronesia	Company Partnership Trust, governed by foreign law
Nauru	Trust/nominee company Company Partnership Sole proprietorship Foreign will Foreign estate Other form of business negotiated with the Government
New Caledonia	<i>Société</i> (Company) <i>Société civile</i> (Civil company) <i>Société de personnes</i> (Partnership) Joint venture Estate of deceased person Trust, governed by foreign law
New Zealand	Trust, governed by foreign law
Niue	Trust, governed by local or foreign law International business company
Panama	<i>Fideicomiso</i> (Trust, governed by local law) and trust governed by foreign law <i>Fundación de interés privado</i> (Foundation) International business company
Palau	Company Partnership Sole proprietorship Representative office Credit union (financial cooperative) Cooperative Trust, governed by foreign law
Philippines	Trust, governed by local or foreign law
Puerto Rico	Estate Trust, governed by local or foreign law International banking entity
Saint Kitts and Nevis	Trust, governed by local or foreign law Foundation Exempt company Exempt Limited Partnership



▼ M4

Countries and jurisdictions	Categories of entities and legal arrangements
Saint Lucia	Trust, governed by local or foreign law International business company
Saint Vincent and the Grenadine	Trust, governed by local or foreign law International business company
Sao Tomé e Príncipe	International business company Trust, governed by foreign law
Samoa	Trust, governed by local or foreign law International trust International company Offshore bank Offshore insurance company International partnership Limited partnership
Seychelles	Trust, governed by local or foreign law International business company
Singapore	Trust, governed by local or foreign law
Solomon Islands	Company Partnership Trust, governed by local or foreign law
South Africa	Trust, governed by local or foreign law
Tonga	Trust, governed by local or foreign law
Tuvalu	Trust, governed by local or foreign law Provident fund
United Arab Emirates	Trust, governed by local or foreign law Offshore company
State of Delaware (USA)	Limited Liability Company
State of Wyoming (USA)	Limited Liability Company
US Virgin Islands	Trust, governed by local or foreign law Exempt company

▼ **M4**

Countries and jurisdictions	Categories of entities and legal arrangements
Uruguay	Trust, governed by local or foreign law <i>Sociedad Anónima Financiera de Inversión</i>
Vanuatu	Trust, governed by local or foreign law Exempt company International company

2. Entities and legal arrangements whose place of establishment or place of effective management is in a country or jurisdiction listed in Article 17(2), to which Article 2(3) applies pending the adoption by the country or jurisdiction concerned of provisions equivalent to those of Article 4(2):

Countries and jurisdictions	Categories of entities and legal arrangements
Andorra	Trust, governed by foreign law
Anguilla	Trust, governed by local or foreign law International business company
Aruba	Trust, governed by local or foreign law <i>Stichting Particulier Fonds</i>
British Virgin Islands	Trust, governed by local or foreign law Company
Cayman Islands	Trust, governed by local or foreign law Exempt company
Guernsey	Trust, governed by local or foreign law Company Foundation
Isle of Man	Trust, governed by local or foreign law Company
Jersey	Trust, governed by local or foreign law Company Foundation
Liechtenstein	<i>Anstalt</i> (Trust, governed by local law) and trust governed by foreign law <i>Stiftung</i> (Foundation)
Monaco	Trust, governed by foreign law <i>Fondation</i> (Foundation)
Montserrat	Trust, governed by local or foreign law International business company

▼ **M4**

Countries and jurisdictions	Categories of entities and legal arrangements
Netherlands Antilles	Trust, governed by local or foreign law <i>Stichting Particulier Fonds</i>
San Marino	Trust, governed by local or foreign law <i>Fondazione</i> (Foundation)
Switzerland	Trust, governed by foreign law Foundation
Turks and Caicos	Exempted company Limited partnership Trust, governed by local or foreign law

## ▼ M4

## ANNEX II

**Indicative list of categories of entities and legal arrangements which are considered to be not subject to effective taxation, for the purposes of Article 4(2)**

Countries	Categories of entities and legal arrangements	Comments
All EU Member States	European Economic Interest Grouping (EEIG)	
Belgium	<ul style="list-style-type: none"> <li>— <i>Société de droit commun/maatschap</i> (Civil law or commercial company without any legal status)</li> <li>— <i>Société momentanée/tijdelijke handelsvennootschap</i> (Company without any legal status whose purpose is to deal with one or several specific commercial operations)</li> <li>— <i>Société interne/stille handelsvennootschap</i> (Company without any legal status through which one or more persons have an interest in operations that one or more other persons manage on their behalf)</li> </ul>	<p>Included only if the upstream economic operator making the interest payment to it, or securing the payment for it, has not established the identity and residence of all its beneficial owners, otherwise it falls within point (d) of Article 4(2).</p> <p>These ‘companies’ (the name of which is given in French and Dutch) do not have legal status, and from the point of view of taxation, a look-through approach is applicable.</p>
	— ‘Trust’ or other similar legal arrangement, governed by foreign law	
Bulgaria	<ul style="list-style-type: none"> <li>— Дружество със специална инвестиционна цел (Special-purpose investment company)</li> <li>— <i>Инвестиционно дружество</i> (Investment company, not covered by Article 6)</li> </ul>	Entity exempt from corporate income tax
	— ‘Trust’ or other similar legal arrangement, governed by foreign law	Unless the trustee can prove that the trust is actually subject to Bulgarian income taxation
Czech Republic	<ul style="list-style-type: none"> <li>— <i>Veřejná obchodní společnost (veř. obch. spol. or v.o.s.)</i> (Partnership)</li> <li>— <i>Sdružení</i> (Association)</li> <li>— Komanditní společnost</li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Denmark	<ul style="list-style-type: none"> <li>— <i>Interessentskab</i> (General partnership)</li> <li>— <i>Kommanditselskab</i> (Limited partnership)</li> <li>— <i>Kommanditaktieselskab/Partnerselskab</i></li> <li>— <i>Partrederi</i></li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	

## ▼ M4

Countries	Categories of entities and legal arrangements	Comments
Germany	<ul style="list-style-type: none"> <li>— <i>Gesellschaft bürgerlichen Rechts</i> (Civil law company)</li> <li>— <i>Kommanditgesellschaft — KG, offene Handelsgesellschaft — OHG</i> (Commercial partnership)</li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Estonia	<ul style="list-style-type: none"> <li>— <i>Seltsing</i> (Partnership)</li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Ireland	<ul style="list-style-type: none"> <li>— Partnership and investment club</li> </ul>	Irish resident trustee is generally taxable on income arising to the trust. However, where the beneficiary or trustee is a non-Irish resident, only Irish source income arising in such cases is taxable.
Greece	<ul style="list-style-type: none"> <li>— <i>Ομόρρυθμος εταιρεία (OE)</i> (General partnership)</li> <li>— <i>Ετερόρρυθμος εταιρεία (EE)</i> (Limited partnership)</li> </ul>	Partnerships are subject to corporate income tax. However, up to 50 % of the profits of partnerships is taxed in the hands of the individual partners at their personal tax rate.
	<ul style="list-style-type: none"> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Spain	<ul style="list-style-type: none"> <li>— Entities subject to the system for taxing attribution of profits: <ul style="list-style-type: none"> <li>— <i>Sociedad civil con o sin personalidad jurídica</i> (Civil law partnership with or without legal personality),</li> <li>— <i>Herencias yacentes</i> (Estate of a deceased person),</li> <li>— <i>Comunidad de bienes</i> (Joint ownership).</li> </ul> </li> <li>— Other entities without legal personality that constitute a separate economic unit or a separate group of assets (Article 35(4) of the <i>Ley General Tributaria</i>).</li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
France	<ul style="list-style-type: none"> <li>— <i>Société en participation</i> (Joint venture company)</li> <li>— <i>Société ou association de fait</i> (De facto company)</li> <li>— <i>Indivision</i> (Joint ownership)</li> <li>— <i>Fiducie</i></li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Italy	<ul style="list-style-type: none"> <li>— All Civil law partnerships and assimilated entities</li> </ul>	The category of Civil law partnerships includes: ‘ <i>società in accomandita semplice</i> ’, ‘ <i>società semplici</i> ’, <i>associazioni</i> (associations) among artists or professional persons for the practice of

## ▼ M4

Countries	Categories of entities and legal arrangements	Comments
		their art or profession, without legal personality ' <i>società in nome collettivo</i> ', ' <i>società di fatto</i> ' (irregular or 'de facto' partnerships) and ' <i>società di armamento</i> '
	— Companies with a limited number of shareholders opting for fiscal transparency	The 'tax transparency' regime may be adopted by limited liability companies or cooperative societies whose members are individuals (Article 116 of TUIR).
	— 'Trust' or other similar legal arrangement, governed by foreign law	Unless the trustee can provide documentation proving that the trust is fiscally resident and subject to effective corporate taxation in Italy.
Cyprus	— Συνεταιρισμός (Partnership) — Σύνδεσμος or σωματείο (Association)	
	— Συνεργατικές (Cooperative)	Only transactions with members.
	— 'Trust' or other similar legal arrangement, governed by local or foreign law	Trusts created under Cypriot jurisdiction are considered transparent entities under national law.
Latvia	— <i>Pilnsabiedrība</i> (General partnership)	
	— <i>Komandītsabiedrība</i> (Limited partnership)	
	— <i>Biedrība un nodibinājums</i> (Association and foundation)	
	— <i>Lauksaimniecības kooperatīvs</i> (Agriculture cooperative)	
	— 'Trust' or other similar legal arrangement, governed by foreign law	
Lithuania	— 'Trust' or other similar legal arrangement, governed by foreign law	
Luxembourg	— 'Trust' or other similar legal arrangement, governed by foreign law	
Hungary	— 'Trust' or other similar legal arrangement, governed by foreign law	Hungary recognises trusts as 'entities' under national rules
Malta	— <i>Soċjetà In Akkomandita</i> (Partnership ' <i>en commandite</i> '), the capital of which is not divided into shares	Partnerships ' <i>en commandite</i> ' the capital of which is divided into shares are subject to general CIT.
	— Arrangement in participation (Association ' <i>en participation</i> ')	
	— <i>Soċjetà Kooperattiva</i> (Cooperative society)	

## ▼ M4

Countries	Categories of entities and legal arrangements	Comments
The Netherlands	<ul style="list-style-type: none"> <li>— <i>Vennootschap onder firma</i> (General partnership)</li> <li>— <i>Commanditaire vennootschap</i> (Closed limited partnership)</li> </ul>	General partnerships, closed partnerships and EEIGs are transparent for tax purposes.
	<ul style="list-style-type: none"> <li>— <i>Vereniging</i> (Association)</li> <li>— <i>Stichting</i> (Foundation)</li> </ul>	<i>Verenigingen</i> (Associations) and <i>stichtingen</i> (foundations) are tax exempt unless they carry on a trade or business.
	<ul style="list-style-type: none"> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Austria	<ul style="list-style-type: none"> <li>— <i>Offene Gesellschaft (OG)</i> (general partnership)</li> <li>— <i>Offene Handelsgesellschaft (OHG)</i> (commercial partnership)</li> <li>— <i>Kommanditgesellschaft (KG)</i> (limited partnership)</li> <li>— <i>Gesellschaft nach bürgerlichem Recht</i> (civil law partnership)</li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Poland	<ul style="list-style-type: none"> <li>— <i>Spółka jawna (Sp. j.)</i> (General partnership)</li> <li>— <i>Spółka komandytowa (Sp. k.)</i> (Limited partnership)</li> <li>— <i>Spółka komandytowo-akcyjna (S.K.A.)</i> (Limited joint-stock partnership)</li> <li>— <i>Spółka partnerska (Sp. p.)</i> (Professional partnership)</li> <li>— <i>Spółka cywilna (s.c.)</i> (civil law company)</li> <li>— ‘Trust’ or other similar legal arrangement, governed by foreign law</li> </ul>	
Portugal	<ul style="list-style-type: none"> <li>— Civil law partnerships not incorporated in a commercial form</li> <li>— Incorporated firms engaged in listed professional activities in which all partners are individuals qualified in the same profession</li> <li>— Companies merely holding assets which are either controlled by a family group or fully owned by no more than five persons;</li> </ul>	
	<ul style="list-style-type: none"> <li>— Companies licensed to operate on the International Business Centre of Madeira eligible for exemption from IRC (Article 33 of the EBF)</li> </ul>	Article 33 of EBF, applicable to companies licensed until 31 December 2000, provides for an exemption from corporate income tax until 31 December 2011.
	<ul style="list-style-type: none"> <li>— Unincorporated associations</li> </ul>	

## ▼ M4

Countries	Categories of entities and legal arrangements	Comments
	— 'Trust' or other similar legal arrangement, governed by foreign law	The only trusts admitted under Portuguese law are those set up under foreign law by legal persons in the International Business Centre of Madeira.
Romania	— <i>Association</i> (partnership) — <i>Cooperative</i> (Cooperative) — 'Trust' or other similar legal arrangement, governed by foreign law	
Slovenia	— 'Trust' or other similar legal arrangement, governed by foreign law	
Slovak Republic	— <i>Verejná obchodná spoločnosť</i> (General partnership) — <i>Komanditná spoločnosť</i> (Limited partnership) — <i>Združenie</i> (Association) — 'Trust' or other similar legal arrangement, governed by foreign law	
Finland	— <i>avoin yhtiö/öppet bolag</i> (Partnership) — <i>kommandiittiyhtiö/kommanditbolag</i> (Limited partnership) — 'Trust' or other similar legal arrangement, governed by foreign law	
Sweden	— <i>handelsbolag</i> (General partnership) — <i>kommanditbolag</i> (Limited partnership) — <i>enkelt bolag</i> (Simple partnership) — 'Trust' or other similar legal arrangement, governed by foreign law	
United Kingdom	— General partnership — Limited partnership — Limited liability partnership	General partnerships, limited partnerships; limited liability partnerships are transparent for tax purposes.
	— Investment club (where members are entitled to a specific share of assets)	
Gibraltar <sup>(1)</sup>	— 'Trust' or other similar legal arrangement, governed by local or foreign law	Trust income is exempt from tax under the Income Tax Rules 1992 if:  (a) the trust is created by or on behalf of a non-resident person; and  (b) the income,  — is accrued or derived outside Gibraltar, or



▼ **M4**

Countries	Categories of entities and legal arrangements	Comments
		<p>— is received by a trust and if it had been received directly by the beneficiary, it would not be liable to tax under the Income Tax Ordinance.</p> <p>This does not apply if the trust is created before 1 July 1983 and the terms of the trust expressly exclude residents of Gibraltar as beneficiaries.</p>

<sup>(1)</sup> The United Kingdom is the Member State responsible for the external relations of Gibraltar, under the terms of Article 355(3) of the Treaty on the Functioning of the European Union.

▼ M4

## ANNEX III

▼ B

## LIST OF RELATED ENTITIES REFERRED TO IN ARTICLE 15

For the purposes of Article 15, the following entities will be considered to be a 'related entity acting as a public authority or whose role is recognised by an international treaty':

— entities within the European Union:

Belgium	Vlaams Gewest (Flemish Region) Région wallonne (Walloon Region) Région bruxelloise/Brussels Gewest (Brussels Region) Communauté française (French Community) Vlaamse Gemeenschap (Flemish Community) Deutschsprachige Gemeinschaft (German-speaking Community)
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▼ M3

Bulgaria	Общините (municipalities) Социалноосигурителни фондове (Social Security Funds)
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▼ B

Spain	Xunta de Galicia (Regional Executive of Galicia) Junta de Andalucía (Regional Executive of Andalusia) Junta de Extremadura (Regional Executive of Extremadura) Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha) Junta de Castilla-León (Regional Executive of Castilla-León) Gobierno Foral de Navarra (Regional Government of Navarra) Goverm de les Illes Balears (Government of the Balearic Islands) Generalitat de Catalunya (Autonomous Government of Catalonia) Generalitat de Valencia (Autonomous Government of Valencia) Diputación General de Aragón (Regional Council of Aragon) Gobierno de las Islas Canarias (Government of the Canary Islands) Gobierno de Murcia (Government of Murcia) Gobierno de Madrid (Government of Madrid) Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country) Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa) Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya) Diputación Foral de Alava (Regional Council of Alava) Ayuntamiento de Madrid (City Council of Madrid) Ayuntamiento de Barcelona (City Council of Barcelona) Cabildo Insular de Gran Canaria (Island Council of Gran Canaria) Cabildo Insular de Tenerife (Island Council of Tenerife) Instituto de Crédito Oficial (Public Credit Institution) Instituto Catalán de Finanzas (Finance Institution of Catalonia) Instituto Valenciano de Finanzas (Finance Institution of Valencia)
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Greece	Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation) Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation) Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)
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**▼B**

France	La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund) L'Agence française de développement (AFD) (French Development Agency) Réseau Ferré de France (RFF) (French Rail Network) Caisse Nationale des Autoroutes (CNA) (National Motorways Fund) Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance) Charbonnages de France (CDF) (French Coal Board) Entreprise minière et chimique (EMC) (Mining and Chemicals Company)
Italy	Regions Provinces Municipalities Cassa Depositi e Prestiti (Deposits and Loans Fund)

**▼M1**

Latvia	Pašvaldības (local governments)
Poland	gminy (communes) powiaty (districts) województwa (provinces) związki gmin (associations of communes) powiatów (association of districts) województw (association of provinces) miasto stołeczne Warszawa (capital city of Warsaw) Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture) Agencja Nieruchomości Rolnych (Agricultural Property Agency)

**▼B**

Portugal	Região Autónoma da Madeira (Autonomous Region of Madeira) Região Autónoma dos Açores (Autonomous Region of Azores) Municipalities
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**▼M3**

Romania	autoritățile administrației publice locale (local public administration authorities)
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**▼M1**

Slovakia	mestá a obce (municipalities) Železnice Slovenskej republiky (Slovak Railway Company) Štátny fond cestného hospodárstva (State Road Management Fund) Slovenské elektrárne (Slovak Power Plants) Vodohospodárska výstavba (Water Economy Building Company)
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**▼B**

— international entities:

European Bank for Reconstruction and Development  
European Investment Bank  
Asian Development Bank  
African Development Bank  
World Bank/IBRD/IMF  
International Finance Corporation  
Inter-American Development Bank  
Council of Europe Soc. Dev. Fund  
Euratom  
European Community  
Corporación Andina de Fomento (CAF) (Andean Development Corporation)  
Eurofima  
European Coal & Steel Community

**▼B**

Nordic Investment Bank

Caribbean Development Bank

The provisions of Article 15 are without prejudice to any international obligations that Member States may have entered into with respect to the abovementioned international entities.

— entities in third countries:

Those entities that meet the following criteria:

1. the entity is clearly considered to be a public entity according to the national criteria;
2. such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government;
3. such public entity is a large and regular issuer of debt;
4. the State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

**▼M4***ANNEX IV***LIST OF ITEMS FOR STATISTICAL PURPOSES TO BE PROVIDED  
ANNUALLY BY MEMBER STATES TO THE COMMISSION****1. Economic items****1.1. Withholding tax:**

For Austria and Luxembourg (as long as they apply the transitional provisions set out in Chapter III), the total annual amount of tax revenue shared from the withholding tax, split by Member State of residence of the beneficial owners.

For Austria and Luxembourg (as long as they apply the transitional provisions set out in Chapter III), the total annual amount of tax revenue shared with the other Member States from the withholding tax levied under Article 11(5).

Data on the total amounts collected from the withholding tax, split by Member State of residence of the beneficial owners, should also be sent to the national institution in charge of compiling balance of payments statistics.

**1.2. Amount of interest payments/sales proceeds:**

For the Member States exchanging information or having opted for the voluntary disclosure provision under Article 13, the amount of interest payments within their territory which is subject to exchange of information under Article 9, split by Member State or Dependant and Associated Territory of residence of the beneficial owners.

For the Member States exchanging information or having opted for the voluntary disclosure provision under Article 13, the amount of sales proceeds within their territory which is subject to exchange of information under Article 9, split by Member State or Dependant and Associated Territory of residence of the beneficial owners.

For Member States exchanging information or having opted for the voluntary disclosure mechanism, the amount of interest payments subject to exchange of information, split by type of interest payments according to the categories set out in Article 8(2).

The data related to the total amounts of interest payments and sales proceeds, split by Member State of residence of the beneficial owners, should be communicated also to the national institution in charge of the compilation of Balance of Payments statistics.

**1.3. Beneficial owner:**

For all Member States, the number of beneficial owners resident in other Member States and Dependent and Associated Territories, split by Member State or Dependant and Associated Territory of residence.

**1.4. Paying agents:**

For all Member States, the number of paying agents (per sending Member State) involved in exchange of information or withholding tax for the purposes of this Directive.

**▼ M4**

## 1.5. Paying agents upon receipt:

For all Member States, the number of paying agents upon receipt having received interest payments within the meaning of Article 6(4). This concerns both sending Member States, in which interest payments have been made to paying agents upon receipt whose effective place of management is in other Member States, and receiving Member States, who have such entities or legal arrangements on their territory.

2. **Technical items**

## 2.1. Records:

For the Member States exchanging information or having opted for the voluntary disclosure provision of Article 13, the number of records sent and received. One record means one payment for one beneficial owner.

## 2.2. Processed/corrected records:

Number and percentage of syntactically invalid records that can be processed;

Number and percentage of syntactically invalid records that cannot be processed;

Number and percentage of non-processed records;

Number and percentage of records corrected upon request;

Number and percentage of records corrected spontaneously;

Number and percentage of records processed successfully.

3. **Optional items:**

3.1. For the Member States, the amount of interest payments to entities or legal arrangements which is made subject to exchange of information under Article 4(2), split by Member State of the entity's place of effective management.

3.2. For the Member States, the amount of sales proceeds to entities or legal arrangements which is made subject to exchange of information under Article 4(2), split by Member State of establishment of the entity.

3.3. The respective shares of total annual tax collected from resident taxpayers on interest payments made to them by domestic paying agents and by foreign paying agents.