

COMMISSION IMPLEMENTING REGULATION (EU) No 1156/2012

of 6 December 2012

laying down detailed rules for implementing certain provisions of Council Directive 2011/16/EU on administrative cooperation in the field of taxation

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC ⁽¹⁾, and in particular Articles 20(1), 20(3) and 21(1) thereof,

Whereas:

- (1) Directive 2011/16/EU replaced 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 taxation ⁽²⁾. A number of important adaptations of the rules concerning administrative cooperation in the field of taxation were made, in particular as regards the exchange of information between Member States with a view to enhancing the efficiency and the effectiveness of cross-border exchange of information.
- (2) In order to facilitate the exchange of information, Directive 2011/16/EU requires that such exchange take place on the basis of standard forms. Accordingly and with a view to ensuring the appropriateness of the data exchanged and the efficiency of the exchange itself, detailed rules should be laid down in this regard, for the purposes of the exchange of information on request, spontaneous exchange of information, notifications and feedback information. The form to be used should contain a number of fields that are sufficiently diversified, so as to allow Member States to easily deal with all relevant cases, using the fields appropriate for each case.
- (3) According to Directive 2011/16/EU, the information should be communicated using the Common Communication Network (CCN) as far as possible. For the other cases, the practical arrangements for the communication should be specified.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Administrative Cooperation for Taxation,

HAS ADOPTED THIS REGULATION:

Article 1

1. In regard to the forms to be used, 'field' means a location in a form where information to be exchanged pursuant to the Council Directive may be recorded.
2. The form to be used for requests for information and for administrative enquiries pursuant to Article 5 of Directive 2011/16/EU and their replies, acknowledgments, requests for additional background information, inability or refusal pursuant to Article 7 of that Directive shall comply with Annex I to this Regulation.
3. The form to be used for spontaneous information and its acknowledgment pursuant to Articles 9 and 10 respectively of Directive 2011/16/EU shall comply with Annex II to this Regulation.
4. The form to be used for requests for administrative notification pursuant to Article 13(1) and (2) of Directive 2011/16/EU and their responses pursuant to Article 13(3) of that Directive shall comply with Annex III to this Regulation.
5. The form to be used for feedback information pursuant to Article 14(1) of Directive 2011/16/EU shall comply with Annex IV to this Regulation.

Article 2

1. The reports, statements and other documents referred to in the information communicated pursuant to Directive 2011/16/EU may be sent using means of communication other than the CCN network.
2. Where the information referred to in Directive 2011/16/EU is not exchanged by electronic means using the CCN network, and unless otherwise agreed bilaterally, the information shall be provided under cover of a letter describing the information communicated and duly signed by the competent authority communicating the information.

Article 3

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

It shall apply from 1 January 2013.

⁽¹⁾ OJ L 64, 11.3.2011, p. 1.

⁽²⁾ OJ L 336, 27.12.1977, p. 15.

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

Done at Brussels, 6 December 2012.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Form referred to in Article 1(2)

The form for requests for information and for administrative enquiries pursuant to Article 5 of Directive 2011/16/EU and their replies, acknowledgments, requests for additional background information, inability or refusal pursuant to Article 7 of Directive 2011/16/EU contains the following fields (*):

- Legal basis
- Reference number
- Date
- Identity of the requesting and requested authorities
- Identity of the person under examination or investigation
- General case description and, if appropriate, specific background information likely to allow assessing the foreseeable relevance of the information requested to the administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2 of Directive 2011/16/EU
- Tax purpose for which the information is sought
- Period under investigation
- Name and address of any person believed to be in possession of the requested information
- Fulfilment of the legal requirement imposed by Article 16(1) of Directive 2011/16/EU
- Fulfilment of the legal requirement imposed by Article 17(1) of Directive 2011/16/EU
- Reasoned request for a specific administrative enquiry and reasons for refusal to undertake the requested specific administrative enquiry
- Acknowledgement of the request for information
- Request for additional background information
- Reasons for inability or refusal to provide information
- Reasons for a failure to respond by the relevant time limit and date by which the requested authority considers it might be able to respond.

(*) However, only the fields actually filled in a given case need to appear in the form used in that case.

ANNEX II

Form referred to in Article 1(3)

The form for spontaneous information and its acknowledgment pursuant to Articles 9 and 10 respectively of Directive 2011/16/EU contains the following fields (*):

- Legal basis
- Reference number
- Date
- Identity of the sending and receiving authorities
- Identity of the person subject to the spontaneous exchange of information
- Period covered by the spontaneous exchange of information
- Fulfilment of the legal requirement imposed by Article 16(1) of Directive 2011/16/EU
- Acknowledgement of the spontaneous information.

(*) However, only the fields actually filled in a given case need to appear in the form used in that case.

ANNEX III

Form referred to in Article 1(4)

The form for request for notification pursuant to Article 13(1) and (2) of Directive 2011/16/EU and their responses pursuant to Article 13(3) of that Directive contains the following fields (*):

- Legal basis
- Reference number
- Date
- Identity of the requesting and requested authorities
- Name and address of the addressee of the instrument or decision
- Other information which may facilitate the identification of the addressee
- Subject of the instrument or decision
- Response of the requested authority, in accordance with Article 13(3) of Directive 2011/16/EU, including the date of notification of the instrument or decision to the addressee.

(*) However, only the fields actually filled in a given case need to appear in the form used in that case.

ANNEX IV

Form referred to in Article 1(5)

The form for feedback pursuant to Article 14(1) of Directive 2011/16/EU contains the following fields (*):

- Reference number
- Date
- Identity of the competent authority issuing the feedback
- General feedback on the information provided
- Results directly related to the information provided.

(*) However, only the fields actually filled in a given case need to appear in the form used in that case.
