

Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC

CHAPTER II

EXCHANGE OF INFORMATION

SECTION II

***Mandatory automatic exchange of information***

*Article 8*

**Scope and conditions of mandatory automatic exchange of information**

1 The competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information regarding taxable periods as from 1 January 2014 that is available concerning residents in that other Member State, on the following specific categories of income and capital as they are to be understood under the national legislation of the Member State which communicates the information:

- a income from employment;
- b director's fees;
- c life insurance products not covered by other Union legal instruments on exchange of information and other similar measures;
- d pensions;
- e ownership of and income from immovable property.

2 Before 1 January 2014, Member States shall inform the Commission of the categories listed in paragraph 1 in respect of which they have information available. They shall inform the Commission of any subsequent changes thereto.

3 The competent authority of a Member State may indicate to the competent authority of any other Member State that it does not wish to receive information on the categories of income and capital referred to in paragraph 1, or that it does not wish to receive information on income or capital not exceeding a threshold amount. It shall also inform the Commission thereof. A Member State may be considered as not wishing to receive information in accordance with paragraph 1, if it does not inform the Commission of any single category in respect of which it has information available.

4 Before 1 July 2016, Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges and, to the extent possible, with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.

5 Before 1 July 2017, the Commission shall submit a report that provides an overview and an assessment of the statistics and information received, on issues such as the administrative and other relevant costs and benefits of the automatic exchange of information, as well as practical aspects linked thereto. If appropriate, the Commission shall present a proposal to

the Council regarding the categories of income and capital and/or the conditions laid down in paragraph 1, including the condition that information concerning residents in other Member States has to be available.

When examining a proposal put forward by the Commission, the Council shall assess further strengthening of the efficiency and functioning of the automatic exchange of information and raising the standard thereof, with the aim of providing that:

- a the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State, information regarding taxable periods as from 1 January 2017 concerning residents in that other Member State, on at least three of the specific categories of income and capital listed in paragraph 1, as they are to be understood under the national legislation of the Member State communicating the information; and
- b the list of categories in paragraph 1 be extended to include dividends, capital gains and royalties.

6 The communication of information shall take place at least once a year, within six months following the end of the tax year of the Member State during which the information became available.

7 The Commission shall adopt the practical arrangements for the automatic exchange of information, in accordance with the procedure referred to in Article 26(2), before the dates referred to in Article 29(1).

8 Where Member States agree on the automatic exchange of information for additional categories of income and capital in bilateral or multilateral agreements which they conclude with other Member States, they shall communicate those agreements to the Commission which shall make those agreements available to all the other Member States