

Council Directive (EU) 2017/1852 of 10 October 2017 on
tax dispute resolution mechanisms in the European Union

Article 11

Rules of Functioning

1 Member States shall provide that, within the 120-day period provided for in Article 6(1), the competent authority of each of the Member States concerned shall notify the affected person with the following:

- a the Rules of Functioning for the Advisory Commission or Alternative Dispute Resolution Commission;
- b the date by which the opinion on the resolution of the question in dispute shall be adopted;
- c references to any applicable legal provisions in national law of the Member States and to any applicable agreements or conventions.

2 The Rules of Functioning shall be signed between the competent authorities of the Member States involved in the dispute.

The Rules of Functioning shall provide in particular:

- a the description and the characteristics of the question in dispute;
- b the terms of reference on which the competent authorities of the Member States agree as regards the legal and factual questions to be resolved;
- c the form of the dispute resolution body, which shall be either an Advisory Commission or an Alternative Dispute Resolution Commission, as well as the type of process for any Alternative Dispute Resolution, if the process differs from the independent opinion process applied by an Advisory Commission;
- d the time frame for the dispute resolution procedure;
- e the composition of the Advisory Commission or Alternative Dispute Resolution Commission (including the number and names of the members, details of their competence and qualifications, and disclosing any conflicts of interest of the members);
- f the rules governing the participation of the affected person(s) and third parties in the proceedings, exchanges of memoranda, information and evidence, the costs, the type of dispute resolution process to be used, and any other relevant procedural or organisational matters;
- g the logistical arrangements for the Advisory Commission's proceedings and delivery of its opinion.

If an Advisory Commission is set up to deliver an opinion under point (a) of the first subparagraph of Article 6(1), only the information referred to points (a), (d), (e) and (f) of the second subparagraph of Article 11(2) shall be set out in the Rules of Functioning.

3 The Commission shall establish standard Rules of Functioning on the basis of the provisions of the second subparagraph of paragraph 2 of this Article by means of implementing acts. Such standard Rules of Functioning shall apply in cases where the Rules of Functioning are incomplete or were not notified to the affected person. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 20(2).

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

4 Where the competent authorities have not notified the Rules of Functioning to the affected person in accordance with paragraphs 1 and 2, the independent persons of standing and the chair shall complete the Rules of Functioning on the basis of the standard form provided for under paragraph 3 and shall send them to the affected person within two weeks from the date that the Advisory Commission or Alternative Dispute Resolution Commission was set up. Where the independent persons and the Chair have not agreed on the Rules of Functioning or have not notified them to the affected person, the affected person or affected persons may apply to a competent court in one of the Member States concerned in order to obtain an order for the implementation of the Rules of Functioning.