

Resolution of the Bundesrat

Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

COM(2016) 25 final; Council Doc. 5638/16

At its 942nd sitting on 26 February 2016 the Bundesrat adopted the following opinion pursuant to Sections 3 and 5 of the Act on Cooperation between the Federation and the Länder in European Union Affairs (EUZBLG):

1. The Bundesrat welcomes the proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation and the associated extension of automatic exchange of information on country-by-country-reporting.
2. This is an outcome of the OECD Base Erosion and Profit Shifting (BEPS) project that must be implemented as early as 2016. The Bundesrat therefore supports the intended short-term and uniform implementation across Europe of a key element of BEPS Action Point 13.
3. Country-by-country reporting will increase transparency. In the case of multinational companies, the tax administration will receive an overview of the global distribution of profits and taxes in the different States and will be able to estimate more easily and rapidly whether transfer pricing policy is leading to profit shifting.
4. The Bundesrat calls on the Federal Government to exert its influence with the Commission to make amendments to the draft Directive in order to impose appropriate and feasible reporting requirements on companies. This applies in particular to possible reporting requirements for permanent establishments and subsidiaries with a parent company in a third country.
5. The Bundesrat further calls on the Federal Government to ensure that business secrets are properly protected like tax secrets.
6. In particular with regard to the desired international harmonisation of reporting requirements and the tight timetable, the Directive should be based on the OECD recommendations and not go any further.

Nomination of a representative to discuss the proposal

7. Pursuant to Section 6(1) EUZBLG (Act on Cooperation between the Federation and the Länder in European Union Affairs) in conjunction with Part I of the *Bund-Länder-Vereinbarung* (Federal/Regional Agreement), the Bundesrat nominates to discuss this proposal in Council bodies

a representative of the Land

North Rhine-Westphalia,

Finance Ministry

(Marcus Spahn).

Direct submission to the Commission

8. The Bundesrat is submitting this opinion directly to the Commission.