



EUROPEAN COMMISSION

Brussels, 27.7.2015

C(2015) 5224 final

Dear President,

The Commission would like to thank the Riksdag for its Reasoned Opinion concerning the Commission proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation {COM(2015) 135 final}.

The Commission welcomes the Riksdag's acknowledgement that measures to ensure the exchange of information on tax rulings with cross border effects require a common and compulsory approach that can only be achieved at EU level, and are thus in line with the principle of subsidiarity.

At the same time, the Commission has taken note of the Riksdag's concerns that certain elements of the proposal go beyond what is required to achieve the desired objectives thereby leading to a situation in which the proposal is not compliant with the principle of proportionality.

For the reasons set out below, the Commission remains of the view that the measures set out in the proposal are indeed proportionate as they are necessary to address the shortcomings in the current arrangements for the exchange of information in the field of taxation.

Enhancing transparency is an important instrument in the fight against harmful tax practices, which – as broadly agreed in the EU – undermine the functioning of the internal market. This explains why the Commission has taken a broad view as to the type of information to be covered by the proposed Directive as in so doing the margin of discretion regarding which rulings might be harmful and should therefore be exchanged is minimised. This approach should also ensure that the proposed Directive would have a real effect in practice and that compliance with the proposal would be high. For example in a tax audit, which is usually performed to look at past tax reports, the arrangements made at the end of the audit between the administration and the taxpayer may also have an impact for the future and to this extent would have the same impact as any advance tax ruling.

*Mr Urban AHLIN
Speaker of the Riksdag
SE – 100 12 STOCKHOLM*

The scope has also been kept wide to ensure that a broad range of different types of rulings are captured. The Commission has proposed that not only unilateral, but also bi- and multilateral advance pricing arrangements including those where a non-EU country is involved should be within the proposed Directive's scope. The question whether this particular situation could create a problem for some Member States is currently under discussion in the technical working group.

The proposal covers future rulings but also rulings exchanged during the period before the entry into force of the new Directive provided they are still valid on that date because they can still have an impact on the tax base of other Member States. Extending the automatic exchange obligation to rulings issued in the ten year period before the proposed Directive takes effect is therefore considered necessary to allow Member States to get a more complete picture. Furthermore, the Commission believes that ten years is a reasonable period to achieve the envisaged objective and the related administrative burden is acceptable.

The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council in which your government is represented.

The Commission hopes that these clarifications address the issues raised by the Riksdag and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Pierre Moscovici
Member of the Commission*