



Council Directive (EU) 2015/2376

Advance cross-border tax rulings and advance pricing arrangements – Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards automatic exchange of information in the field of taxation

Who?

Cross-border tax rulings and advance pricing arrangements (also known as a transfer pricing agreements) issued by Member States to taxpayers. The Directive has a wide scope that includes taxpayers of all business forms, for example legal persons like companies and legal arrangements like trusts and foundations. Rulings that relate only to natural persons are not included in the Directive.

The competent authority of the Member State that issued the ruling or the pricing arrangement shall automatically exchange them with other Member States by registering the rulings and pricing arrangements in a central directory database that will be accessible to all Member States.

All taxpayers receiving such a ruling and pricing arrangement will be included irrespective of their country of residence. For example, a ruling or pricing arrangement issued by the competent authority of a Member State to a taxpayer resident in a non-EU country will also need to be registered in the central directory database.

What?

An advance cross-border tax ruling is a confirmation or assurance that tax authorities give to taxpayers on how their tax will be calculated in a cross-border situation before the transaction takes place. Similarly, an advance pricing arrangement determines in advance of cross-border transactions an appropriate set of criteria between associated enterprises (i.e. group companies) for the determination of transfer prices or determines the attribution of profit to a permanent establishment.

Member States will register the following information on their cross-border tax rulings and advance pricing arrangements:

- The identity of the person, other than a natural person, and where appropriate the group of persons (i.e. group companies) to which the taxpayer belongs;
- The summary of the content of the advance cross-border ruling or advance pricing arrangement, including the amounts of the transactions;
- The date of issuance, amendment or renewal of the cross-border ruling or the advance pricing arrangement;

- The start date and end date of the period of validity of the cross-border ruling or the advance pricing arrangement;
- For advance pricing arrangements the set of criteria and the method used for the transfer pricing;
- The identification of the other Member State or persons in the other Member State, other than natural persons, likely to be affected by the advance cross-border ruling or advance pricing arrangement.

For advance pricing arrangements with third countries (so-called bilateral or multilateral advance pricing arrangements) which prohibit disclosure of such arrangements then the above information included in the request that led to the issuance of such an arrangement will be registered in the central directory database.

The criteria of what constitutes a cross-border tax ruling and an advance pricing arrangement are defined in the Directive.

When?

The Directive is applicable as from 1 January 2017. The Directive applies to both past and new cross-border tax rulings and advance pricing arrangements:

Rulings and pricing arrangements issued as from 1 January 2012 until 31 December 2016 need to be registered in the central database directory by 1 January 2018. Such rulings and pricing arrangements for 2012/2013 do not need to be registered if not in force at 1 January 2014.

Rulings and pricing arrangements issued as from 1 January 2017 need to be registered in the central database directory within 3 months following the end of the half of the calendar year in which the agreement has been signed. For example, rulings and agreements issued in March 2017 should be registered by 30 September 2017 in the central database directory.

Public Disclosure?

There is no public disclosure with information in the central directory database is only accessible to the competent authorities of the Member States. The European Commission has limited access to the database only for monitoring purposes.