



ECOFIN reached an agreement on new DAC 7 proposal

On 1 December 2020, the ECOFIN reached an agreement on the EU Council Presidency compromise text of the draft Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC 7).

The text agreed upon during the ECOFIN meeting includes some amendments and additions to the EU Commission's original proposal, which was presented on 15 July 2020 as part of the 2020 Tax Package for fair and simple taxation (see our [EU TAX ALERT 2020/10](#)).

The key objectives of the legislative proposal are twofold:

- i. amending certain existing provisions of Directive 2011/16/EU related to the exchange of information on request, mostly dealing with the standard of foreseeable relevance and group requests, and inserting provisions to further clarify the framework for conducting joint audits;
- ii. extending the scope of application of the mandatory automatic exchange of information to digital platform operators, placing on them an obligation to provide information on (and, in particular, income earned by) sellers of goods and providers of services carrying out a reportable activity through such digital platforms to the competent tax authorities.

With particular reference to the automatic exchange of information for digital sales and services, reportable activities include the rental of immovable property, the provision of personal services, the sale of goods and the rental of any mode of transport. Investments and lending in the context of crowdfunding are excluded from the scope of the updated agreed proposal. Furthermore, in line with the OECD's Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy, also rentals made by hotel chains or tour operators meeting a certain threshold are excluded from reporting obligations.

If adopted, the new rules will affect both EU and non-EU platform operators if the latter facilitate reportable commercial activities of EU sellers/providers or the rental of immovable property located in the EU. EU reporting platform operators which qualify as such in more than one Member State are allowed to elect a single Member State where to carry out the reporting. Non-EU reporting platform operators are generally allowed to elect the Member State in which they register for reporting rules purposes. The updated agreed proposal provides for an exemption from the reporting

obligations towards a Member State for non-EU reporting platform operators belonging to third jurisdictions where adequate agreements exist to ensure an exchange of information equivalent to that established by DAC 7.

Formal adoption by the EU Council is expected in the coming weeks, once the opinions of the European Parliament and the European Economic and Social Committee have been received and the legal-linguistic revision has taken place. The new rules are set to apply as from 1 January 2023.

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