

Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC

CHAPTER III

OTHER FORMS OF ADMINISTRATIVE COOPERATION

SECTION I

Presence in administrative offices and participation in administrative enquiries

Article 11

Scope and conditions

1 By agreement between the requesting authority and the requested authority and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may, with a view to exchanging the information referred to in Article 1(1):

- a be present in the offices where the administrative authorities of the requested Member State carry out their duties;
- b be present during administrative enquiries carried out in the territory of the requested Member State.

Where the requested information is contained in documentation to which the officials of the requested authority have access, the officials of the requesting authority shall be given copies thereof.

2 In so far as this is permitted under the legislation of the requested Member State, the agreement referred to in paragraph 1 may provide that, where officials of the requesting authority are present during administrative enquiries, they may interview individuals and examine records.

Any refusal by the person under investigation to respect the inspection measures of the officials of the requesting authority shall be treated by the requested authority as if that refusal was committed against officials of the latter authority.

3 Officials authorised by the requesting Member State present in another Member State in accordance with paragraph 1 shall at all times be able to produce written authority stating their identity and their official capacity.

SECTION II

Simultaneous controls

Article 12

Simultaneous controls

1 Where two or more Member States agree to conduct simultaneous controls, in their own territory, of one or more persons of common or complementary interest to them, with a view to exchanging the information thus obtained, paragraphs 2, 3 and 4 shall apply.

2 The competent authority in each Member State shall identify independently the persons for whom it intends to propose a simultaneous control. It shall notify the competent authority of the other Member States concerned of any cases for which it proposes a simultaneous control, giving reasons for its choice.

It shall specify the period of time during which those controls are to be conducted.

3 The competent authority of each Member State concerned shall decide whether it wishes to take part in simultaneous controls. It shall confirm its agreement or communicate its reasoned refusal to the authority that proposed a simultaneous control.

4 The competent authority of each Member State concerned shall appoint a representative with responsibility for supervising and coordinating the control operation.

SECTION III

Administrative notification

Article 13

Request for notification

1 At the request of the competent authority of a Member State, the competent authority of another Member State shall, in accordance with the rules governing the notification of similar instruments in the requested Member State, notify the addressee of any instruments and decisions which emanate from the administrative authorities of the requesting Member State and concern the application in its territory of legislation on taxes covered by this Directive.

2 Requests for notification shall indicate the subject of the instrument or decision to be notified and shall specify the name and address of the addressee, together with any other information which may facilitate identification of the addressee.

3 The requested authority shall inform the requesting authority immediately of its response and, in particular, of the date of notification of the instrument or decision to the addressee.

4 The requesting authority shall only make a request for notification pursuant to this Article when it is unable to notify in accordance with the rules governing the notification of the instruments concerned in the requesting Member State, or where such notification would give rise to disproportionate difficulties. The competent authority of a Member State may notify

any document by registered mail or electronically directly to a person within the territory of another Member State.

SECTION IV

Feedback

Article 14

Conditions

1 Where a competent authority provides information pursuant to Articles 5 or 9, it may request the competent authority which receives the information to send feedback thereon. If feedback is requested, the competent authority which received the information shall, without prejudice to the rules on tax secrecy and data protection applicable in its Member State, send feedback to the competent authority which provided the information as soon as possible and no later than three months after the outcome of the use of the requested information is known. The Commission shall determine the practical arrangements in accordance with the procedure referred to in Article 26(2).

2 Member States' competent authorities shall send feedback on the automatic exchange of information to the other Member States concerned once a year, in accordance with practical arrangements agreed upon bilaterally.

SECTION V

Sharing of best practices and experience

Article 15

Scope and conditions

1 Member States shall, together with the Commission, examine and evaluate administrative cooperation pursuant to this Directive and shall share their experience, with a view to improving such cooperation and, where appropriate, drawing up rules in the fields concerned.

2 Member States may, together with the Commission, produce guidelines on any aspect deemed necessary for sharing best practices and sharing experience.