



STATUTORY INSTRUMENTS.

S.I. No. 706 of 2022

EUROPEAN UNION (ADMINISTRATIVE COOPERATION IN THE FIELD
OF TAXATION) (AMENDMENT) REGULATIONS 2022

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I, MICHAEL MCGRATH, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Council Directive 2011/16/EU of 15 February 2011¹, as amended by Council Directive (EU) 2021/514 of 22 March 2021², hereby make the following regulations:

1. These Regulations may be cited as the European Union (Administrative Cooperation in the Field of Taxation) (Amendment) Regulations 2022.

2. The European Union (Administrative Cooperation in the Field of Taxation) Regulations 2012 (S.I. No. 549 of 2012) are amended –

(a) in Regulation 3(1) –

(i) by the substitution of the following definition for the definition of “Council Directive”:

“ ‘Council Directive’ means Council Directive 2011/16/EU of 15 February 2011³ on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, as amended by Council Directive 2014/107/EU of 9 December 2014⁴, Council Directive (EU) 2015/2376 of 8 December 2015⁵, Council Directive (EU) 2016/881 of 25 May 2016⁶, Council Directive (EU) 2016/2258 of 6 December 2016⁷, Council Directive (EU) 2018/822 of 25 May 2018⁸, Council Directive (EU) 2020/876 of 24 June 2020⁹ and Council Directive (EU) 2021/514 of 22 March 2022¹⁰;”,

and

(ii) by the insertion of the following definition:

“ ‘TIN’ has the meaning assigned to it by paragraph C of Section 1 of Annex V to the Council Directive;”,

(b) in Regulation 5 –

¹ OJ No. L 64, 11.03.2011, p. 1

² OJ No. L 104, 25.03.2021, p. 1

³ OJ No. L 64, 11.03.2011, p. 1

⁴ OJ No. L 359, 16.12.2014, p. 1

⁵ OJ No. L 332, 18.12.2015, p. 1

⁶ OJ No. L 146, 03.06.2016, p. 8

⁷ OJ No. L 342, 16.12.2016, p. 1

⁸ OJ No. L 139, 05.06.2018, p. 1

⁹ OJ No. L204, 26.06.2020, p. 1

¹⁰ OJ No. L104, 25.03.2021, p. 1

- (i) in paragraph (1), by the substitution of “a request under Article 5 of the Council Directive can be made in respect of all taxes” for “these Regulations apply to all taxes”, and
- (ii) in paragraph (2), by the substitution of “In no case shall the taxes referred to in paragraph (1) be construed as including” for “These Regulations do not apply to”,
- (c) by the deletion of Regulation 9,
- (d) in Regulation 11(4) –
 - (i) in subparagraph (a), by the substitution of “within 60 days of receipt of the proposal, advise” for “advise”,
 - (ii) in subparagraph (b), by the substitution of “within 60 days of receipt of the proposal, advise” for “advise”,
- (e) in Regulation 14(2), by the substitution of “subject to paragraph (3) and Regulation 14A” for “subject to paragraph (3)”, and
- (f) by the insertion of the following Regulation after Regulation 14:

“14A. (1) Subject to paragraphs (2) to (4), for the purposes of complying with provisions with respect to the exchange of information contained in the Council Directive, the requested information shall be foreseeably relevant where, at the time the request is made, and where shown to the satisfaction of the competent authority, the requesting authority considers that, in accordance with its national law, there is a reasonable possibility that the requested information will be –

 - (a) relevant, to the tax affairs of one or more persons, whether identified by name or otherwise, and
 - (b) justified for the purposes of enquiries being carried out into the tax affairs of that person or those persons.

(2) The requesting authority shall demonstrate the foreseeable relevance of the requested information by providing the following information to the competent authority:

 - (a) in relation to the person to whom the request refers, that person’s name and TIN, or where that person’s name or TIN are not known to the requesting authority, such other information in the possession of the requesting authority which may be used to identify the person concerned;
 - (b) the tax purpose for which the information is requested;
 - (c) a specification of the information required for the administration or enforcement of the requesting authority’s national law.

(3) Where the request relates to a group or class of person whose individual identities are not known, the requesting

authority shall demonstrate that the requested information is foreseeably relevant by providing to the competent authority, in addition to the information referred to in paragraph (2), the following information:

- (a) a detailed description of the group or class of persons;
 - (b) an explanation of both the applicable law and of the facts based on which the requesting authority believes that the persons in the group or class have not complied with the applicable tax law;
 - (c) an explanation of how the requested information would assist in determining compliance by the persons in the group or class with the applicable tax law;
 - (d) where relevant, the facts and circumstances relating to the involvement of a third party that actively contributed to the potential non-compliance of the persons in the group with the applicable law.
- (4) In addition to the matters specified in paragraphs (2) and (3), the requesting authority shall provide such other information as the competent authority may require to be satisfied that, in accordance with the national law of the requesting jurisdiction, there is a reasonable possibility that the requested information will be –
- (a) relevant, to the tax affairs of one or more person, whether identified by name or otherwise, and
 - (b) justified for the purposes of enquiries being carried out into the tax affairs of that person.”.



GIVEN under my Official Seal,
20 December, 2022.

MICHAEL MCGRATH,
Minister for Finance.

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