



STATUTORY INSTRUMENTS.

S.I. No. 240 of 2020

EUROPEAN UNION (ADMINISTRATIVE COOPERATION IN THE FIELD
OF TAXATION) (AMENDMENT) REGULATIONS 2020

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I, PASCHAL DONOHOE, 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) 2020/876 of 24 June 2020², hereby make the following regulations:

1. These Regulations may be cited as the European Union (Administrative Cooperation in the Field of Taxation) (Amendment) Regulations 2020.

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

“ ‘Council Directive’ means Council Directive 2011/16/EU of 15 February 2011¹ 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 2014³, Council Directive (EU) 2015/2376 of 8 December 2015⁴, Council Directive (EU) 2016/881 of 25 May 2016⁵, Council Directive (EU) 2016/2258 of 6 December 2016⁶, Council Directive (EU) 2018/822 of 25 May 2018⁷ and Council Directive (EU) 2020/876 of 24 June 2020²;”,

and

(b) by the insertion of the following Regulation after Regulation 4:

“4A. (1) Notwithstanding the provisions of Article 8ab(18) of the Council Directive, the Revenue Commissioners shall communicate the first information to the competent authorities of all other Member States by 30 April 2021.

(2) Notwithstanding the provisions of Article 8(6)(b) of the Council Directive, the Revenue Commissioners shall communicate to the competent authority of any other Member State the information referred to in Article 8(3a) that relates to the calendar year 2019 by 31 December 2020.”.

¹ OJ No. L 64, 11.03.2011, p. 1

² OJ No. L204, 26.06.2020, p. 46

³ OJ No. L 359, 16.12.2014, p. 1

⁴ OJ No. L 332, 18.12.2015, p. 1

⁵ OJ No. L 146, 03.06.2016, p. 8

⁶ OJ No. L 342, 16.12.2016, p. 1

⁷ OJ No. L 139, 05.06.2018, p. 1

3. Part 33 of the Taxes Consolidation Act 1997 (No. 39 of 1997) is amended in Chapter 3A -

(a) in section 817RC -

- (i) in subsection (1), by the substitution of “Subject to subsection (1A), an intermediary” for “An intermediary”,
- (ii) by the insertion of the following subsection after subsection (1):

“(1A) Notwithstanding the time limit specified in subsection (1), the period of 30 days for making a return under that subsection shall begin on 1 January 2021 where

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- (a) the reportable cross-border arrangement is made available for implementation,
- (b) the reportable cross-border arrangement is ready for implementation, or
- (c) the first step in the implementation of the reportable cross-border arrangement was taken,

whichever occurs first, during the period beginning on 1 July 2020 and ending on 31 December 2020.”,

- (iii) in subsection (2), by the substitution of “Subject to subsection (2A), an intermediary” for “An intermediary”,
- (iv) by the insertion of the following subsection after subsection (2):

“(2A) Notwithstanding the time limit specified in subsection (2), the period of 30 days for making a return under that subsection shall begin on 1 January 2021 where the aid, assistance or advice referred to in that subsection is provided, directly or by means of other persons as referred to in that subsection, during the period beginning on 1 July 2020 and ending on 31 December 2020.”,

and

- (v) in subsection (3), by the substitution of the following paragraph for paragraph (a):

“(a) when making a return under subsection (1), (1A), (2) or (2A), as the case may be (in this subsection referred to as ‘the return’), state in the return that it is a marketable arrangement, and”,

(b) in section 817RD -

- (i) in subsection (1), by the substitution of “Subject to subsection (1A), where there is no intermediary” for “Where there is no intermediary”, and

- (ii) by the insertion of the following subsection after subsection (1):

“(1A) Notwithstanding the time limit specified in subsection (1), the period of 30 days for making a return under that subsection shall begin on 1 January 2021 where

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- (a) the reportable cross-border arrangement is made available for implementation to the relevant taxpayer,
- (b) the reportable cross-border arrangement is ready for implementation by the relevant taxpayer, or
- (c) the first step in the implementation of a reportable cross-border arrangement was taken in relation to the relevant taxpayer,

whichever occurs first, during the period beginning on 1 July 2020 and ending on 31 December 2020.”,

- (c) in section 817RF -

- (i) in subsection (1), by the substitution of the following paragraph for paragraph (b):

“(b) Where paragraph (a) applies, a return of the specified information shall be made to the Revenue Commissioners under section 817RC not later than 28 February 2021 and the time limit specified in section 817RC(1) or (2), as the case may be, shall not apply.”,

and

- (ii) in subsection (2), by the substitution of the following paragraph for paragraph (b):

“(b) Where paragraph (a) applies, a return to the Revenue Commissioners of the specified information shall be made under section 817RD not later than 28 February 2021 and the time limit specified in section 817RD(1) shall not apply.”.

and

- (d) in section 817RH -

- (i) in subsection (1)(b), by the substitution of “subsection (1), (1A), (2), (2A) or (5) of section 817RC or subsection (1) or (1A) of section 817RD” for “subsection (1), (2) or (5) of section 817RC or section 817RD(1)”, and

- (ii) in subsection (2), by the substitution of the following definition for the definition of “relevant day”:

“ ‘relevant day’ means the first day after the end of the period specified in subsection (1), (1A), (2), (2A) or (5) of section 817RC or subsection (1) or (1A) of section 817RD, as the case may be, during which the obligation imposed on a person by the said subsection (1), (1A), (2), (2A) or (5) of section 817RC or subsection (1) or (1A) of section 817RD, as the case may be, shall be discharged.”.

4. Part 38 of the Taxes Consolidation Act 1997 (No. 39 of 1997) is amended in section 891G(2) by the substitution of the following definition for the definition of “Directive”:

“ ‘Directive’ means Council Directive 2011/16/EU of 15 February 2011¹ 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 2014³, Council Directive (EU) 2015/2376 of 8 December 2015⁴, Council Directive (EU) 2016/881 of 25 May 2016⁵, Council Directive (EU) 2016/2258 of 6 December 2016⁶, Council Directive (EU) 2018/822 of 25 May 2018⁷ and Council Directive (EU) 2020/876 of 24 June 2020²;”.

5. The Mandatory Automatic Exchange of Information in the Field of Taxation Regulations 2015 (S.I. No. 609 of 2015) are amended in Regulation 2(1) -

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

‘Directive’ means Council Directive 2011/16/EU of 15 February 2011¹ 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 2014³, Council Directive (EU) 2015/2376 of 8 December 2015⁴, Council Directive (EU) 2016/881 of 25 May 2016⁵, Council Directive (EU) 2016/2258 of 6 December 2016⁶, Council Directive (EU) 2018/822 of 25 May 2018⁷ and Council Directive (EU) 2020/876 of 24 June 2020²;”,

and

(b) by the substitution of the following definition for the definition of “return date”:

“ ‘return date’ means -

(a) a date that is not later than the 30th day of September 2020, in respect of a return required for the calendar year 2019, and

- (b) in all other cases, a date that is not later than the 30th day of June of the calendar year following the year for which a return is required;”.



GIVEN under the Official Seal of the Minister for Finance,
3 July, 2020.

PASCHAL DONOHOE,
Minister for Finance.

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