

Taxation of savings

Current status:

The aim to avoid distortions to the movement of capital and allow effective taxation of interest payments received by individuals in Member States other than the Member State of residence has led to the adoption of the Savings Directive (Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments). The scope of the Savings Directive is limited to individuals, to the exclusion of companies.

Member States are ultimately expected to automatically exchange information on interest payments by paying agents established in their territories to individual taxpayers resident in other Member States. For a transitional period, Austria, Belgium and Luxembourg may – instead of providing information – levy withholding tax on interest payments, unless the taxpayer presents a certificate from the tax authorities of his Member State of residence that confirms that they are aware of the investment made abroad. The withholding tax – if any – is creditable or refundable in the taxpayer's state of tax residence.

The provisions of the Savings Directive started to be applied by all Member States on 1 July 2005. Through the implementation of bilateral agreements signed by each of the Member States, equivalent measures have been applied from the same date in ten dependent or associated territories of EU Member States, in particular Jersey and Guernsey as well as in several other European countries, in particular Liechtenstein and Switzerland. Furthermore, the European Commission in 2008 started negotiations with Hong Kong, Macao and Singapore.

FEE has closely monitored the development of the Savings Directive and contributed its views to the European Commission since 1999.

The Savings Directive requires the European Commission to report every three years on the directive's implementation and, where appropriate, to propose any amendments that prove necessary in order to ensure effective taxation of savings income and remove distortions of competition (Savings Directive Review). In view of this obligation, the European Commission has consulted external stakeholders within the Expert Group on Taxation of Savings, which brings together qualified representatives of different categories of market operators and started to meet in 2007. Mr. Stefano Marchese, Chair of the FEE Direct Tax Working Party, and Mr. Jean-Marie Cougnon, Deputy Chair of the FEE Direct Tax Working Party, were nominated as members of this Expert Group on Taxation of Savings.

FEE has closely monitored the Savings Directive Review and contributed a comment letter to the European Commission in 2008. FEE welcomed the initiative to review the Savings Directive, outlined the principles that should be taken into account and made a number of concrete suggestions for amendments.

On 29 April 2008, the European Commission has published a Staff Working Document with the aim of refining the present coverage of the Savings Directive and drawing attention to the loopholes in the scope of its measures. [http://ec.europa.eu/taxation_customs/resources/documents/taxation/personal_tax/savings_tax/savings_directive_review/SEC\(2008\)559_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/personal_tax/savings_tax/savings_directive_review/SEC(2008)559_en.pdf)

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In the Staff Working Document, the European Commission outlined the following key issues to be considered and clarified:

- o The current definition of the beneficial owner for the purposes of the Savings Directive, in particular a possible extension of its scope to interest payments made to all legal persons, entities and arrangements or the identification of beneficiaries by applying anti-money laundering provisions ("look-through approach")
- o Make the "paying agent on receipt" mechanism work better, in particular with a positive list of the entities concerned
- o Impose paying agent obligations on certain non-transparent entities and arrangements
- o Enshrine a "substance over form" principle in order to ensure that the Savings Directive applies to all financial products
- o Improve the definition of investment funds and similar vehicles
- o Accommodate rules on cooperation between Member States for enabling taxation of types of investment income which are substantially different from interest

Next Steps:

Further to their meeting on 14 May 2008, the Council of the European Union on Economic and Financial Affairs called on the European Commission to submit the Savings Directive Review report by 30 September 2008, to be followed by specific proposals based on the report. Member States are asked to provide the European Commission with the necessary statistical and other data.

FEE Reference:

FEE comment letter dated 13 March 2008 regarding the European Commission's Working Document dated 14 March 2007 prepared for the meeting of the Expert Group on Taxation of Savings and the questions raised therein. <http://www.fee.be/fileupload/upload/Comment%20Letter%20Review%20of%20the%20operation%20of%20the%20Council%20Directive%20on%20taxation%20of%20savings%20income%20in%20the%20form%20of%20interest%20payments183200857841.pdf>

European Reference:

Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:157:0038:0048:en:PDF>

Council decision 2004/587/EC of 19 July 2004 on the date of application of directive 2003/48/EC on taxation of savings income in the form of interest payments http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_257/l_25720040804en00070007.pdf

Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_309/l_30920051125en00150036.pdf

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About FEE:

FEE (Fédération des Experts comptables Européens – Federation of European Accountants) represents 43 professional institutes of accountants and auditors from 32 European countries, including all 27 EU Member States.