

Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance  
for the recovery of claims relating to taxes, duties and other measures

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concerning mutual assistance for the recovery of  
claims relating to taxes, duties and other measures

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 113 and 115 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>(2)</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Mutual assistance between the Member States for the recovery of each others' claims and those of the Union with respect to certain taxes and other measures contributes to the proper functioning of the internal market. It ensures fiscal neutrality and has allowed Member States to remove discriminatory protective measures in cross-border transactions designed to prevent fraud and budgetary losses.
- (2) Arrangements for mutual assistance for recovery were first set out in Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of the agricultural levies and customs duties<sup>(3)</sup>. That Directive and the acts amending it were codified by Council Directive 2008/55/EC of 26 May 2008 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures<sup>(4)</sup>.
- (3) Those arrangements, however, while providing a first step towards improved recovery procedures within the Union by approximating applicable national rules, have proved insufficient to meet the requirements of the internal market as it has evolved over the last 30 years.
- (4) To better safeguard the financial interests of the Member States and the neutrality of the internal market, it is necessary to extend the scope of mutual assistance for recovery to claims relating to taxes and duties not yet covered by mutual assistance for recovery, whilst in order to cope with the increase in assistance requests and to deliver better results, it is necessary to make assistance more efficient and effective and to facilitate it in practice. In order to fulfil these objectives, important adaptations are

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necessary, whereby a mere modification of the existing Directive 2008/55/EC would not be sufficient. The latter should therefore be repealed and replaced by a new legal instrument which builds on the achievements of Directive 2008/55/EC but provides for clearer and more precise rules where necessary.

- (5) Clearer rules would promote a wider information exchange between Member States. They would also ensure that all legal and natural persons in the Union are covered, taking into account the ever increasing range of legal arrangements, including not only traditional arrangements such as trusts and foundations, but any new instrument which may be set up by taxpayers in the Member States. They would furthermore make it possible to take account of all forms that claims of the public authorities relating to taxes, duties, levies, refunds and interventions may take, including all pecuniary claims against the taxpayer concerned or against a third party which substitute the original claim. Clearer rules are primarily necessary to define better the rights and obligations of all the parties concerned.
- (6) This Directive should not affect the Member States' competence to determine the recovery measures available under their internal legislation. However, it is necessary to ensure that neither disparities between national laws nor lack of coordination between competent authorities jeopardise the seamless operation of the mutual assistance system provided for in this Directive.
- (7) Mutual assistance may consist of the following: the requested authority may supply the applicant authority with the information which the latter needs in order to recover claims arising in the applicant Member State and notify to the debtor all documents relating to such claims emanating from the applicant Member State. The requested authority may also recover, at the request of the applicant authority, the claims arising in the applicant Member State, or take precautionary measures to guarantee the recovery of these claims.
- (8) The adoption of a uniform instrument to be used for enforcement measures in the requested Member State, as well as the adoption of a uniform standard form for notification of instruments and decisions relating to the claim, should resolve the problems of recognition and translation of instruments emanating from another Member State, which constitute a major cause of the inefficiency of the current arrangements for assistance.
- (9) A legal basis for exchange of information without prior request on specific tax refunds should be created. For reasons of efficiency, it should also be rendered possible for tax officials of a Member State to attend or to participate in administrative enquiries in another Member State. Provision should also be made for more direct information exchange between services with a view to making assistance faster and more efficient.
- (10) Given the increasing mobility within the internal market, and the restrictions imposed by the Treaty or other legislation on the guarantees that can be requested from taxpayers not established within the national territory, the possibilities for requesting recovery or precautionary measures in another Member State should be extended. As the age of a claim is a critical factor, it should be possible for Member States to make a request for mutual assistance, even though the domestic means of recovery have not yet been fully

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exhausted, inter alia, where recourse to such procedures in the applicant Member State would give rise to disproportionate difficulty.

- (11) A general obligation to communicate requests and documents in a digital form and via an electronic network, and with precise rules on the use of languages for requests and documents, should allow Member States to handle requests faster and more easily.
- (12) During the recovery procedure in the requested Member State, the claim, the notification made by the authorities of the applicant Member State or the instrument authorising its enforcement might be contested by the person concerned. It should be laid down that in such cases the person concerned should bring the action before the competent body of the applicant Member State and that the requested authority should suspend, unless the applicant authority requests otherwise, any enforcement proceedings which it has begun until a decision is taken by the competent body of the applicant Member State.
- (13) To encourage Member States to devote sufficient resources to the recovery of other Member States' claims, the requested Member State should be able to recover the costs related to recovery from the debtor.
- (14) Efficiency would be best achieved if, when executing a request for assistance, the requested authority could make use of the powers provided under its national laws applying to claims concerning the same or similar taxes or duties. In the absence of a similar tax or duty, the most appropriate procedure would be that provided under the laws of the requested Member State which applies to claims concerning the tax levied on personal income. This use of national legislation should not, as a general rule, apply with regard to the preferences accorded to claims arising in the requested Member State. However, it should be made possible to extend preferences to claims of other Member States based on an agreement between the Member States concerned.
- (15) With regard to questions on limitation, it is necessary to simplify the existing rules, by providing that the suspension, interruption or prolongation of periods of limitation is in general determined according to the laws in force in the requested Member State, except where suspension, interruption or prolongation of the period of limitation is not possible under the laws in force in that State.
- (16) Efficiency requires that information communicated in the course of mutual assistance may be used in the Member State receiving the information for purposes other than those provided for in this Directive, where this is allowed under the domestic legislation of both the Member State providing the information and the Member State receiving the information.
- (17) This Directive should not prevent the fulfilment of any obligation to provide wider assistance ensuing from bilateral or multilateral agreements or arrangements.
- (18) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(5)</sup>.

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- (19) In accordance with point 34 of the Interinstitutional Agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (20) Since the objectives of this Directive, namely the provision of a uniform system of recovery assistance within the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of the uniformity, effectiveness and efficiency required, be better achieved at the level of the Union, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (21) This Directive respects the fundamental rights and observes the principles which are recognised in particular by the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS DIRECTIVE:

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- (1) Opinion of 10 February 2010 (not yet published in the Official Journal).
- (2) Opinion of 16 July 2009 (not yet published in the Official Journal).
- (3) [OJ L 73, 19.3.1976, p. 18.](#)
- (4) [OJ L 150, 10.6.2008, p. 28.](#)
- (5) [OJ L 184, 17.7.1999, p. 23.](#)