
Consultation Response

Directive on Administrative Co-operation

July 2024

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the Commission's evaluation of the Directive on Administrative Cooperation in the Field of Direct Taxation ('DAC').

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is registered on the EU Transparency Register, registration number 65110063986-76.

We summarise below our high-level response to the evaluation. Our answers to the questionnaire are attached as an Appendix.

We would welcome further opportunities to engage with the Commission on this topic to ensure that the evaluation results in simpler and more effective tax systems.

Executive Summary

We support initiatives to improve the efficient collection of data required for compliance with tax law and the exchange of information between Tax Administrations within the European Union (EU). We believe that the DAC provides an important framework to address the complexities of cross-border taxation within the EU.

We believe that the Commission should assess the DAC in light of other tax initiatives with similar transparency objectives, such as the OECD's Pillar II rules and the new EU public country-by-country reporting requirements and seek to simplify the DAC wherever possible.

The new rules for withholding tax procedures (FASTER), agreed by EU Member States on 14 May 2024¹, include extensive anti-avoidance provisions and reporting requirements. We encourage the Commission to consider the interaction between these requirements and the DAC, to avoid duplication and minimize compliance costs for businesses.

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¹ [Council Directive on Faster and Safer Relief of Excess Withholding Taxes. - General approach](#)

DAC Evaluation - Open Public Consultation – responses to questionnaire

Part 1 - OVERALL ASSESSMENT OF DAC

Question 1

To what extent are the following issues still a problem today?

	To a large extent	To a moderate extent	To a minor extent	Not at all	No opinion/ Don't know
Erosion of the tax-base following the increased movement of people and capital in the EU					x
Aggressive tax planning by corporations					x
Harmful tax competition among EU Member States					x

Question 2

To what extent have the following issues improved or worsened?

	Significantl y improved	Improved	No change	Worsened	Significantl y worsened	No opinion/ Don't know
Erosion of the tax-base following the increased movement of people and capital in the EU		x				
Aggressive tax planning by corporations		x				
Harmful tax competition among EU Member States						x

Question 3

To what extent do you agree with the following statements?

	To a large extent	To a moderate extent	To a minor extent	Not at all	No opinion/ Don't know
AEOI is useful to reduce tax evasion by individuals earning incomes or rents abroad	x				
AEOI is useful to reduce tax evasion by individuals holding financial assets abroad	x				
Knowledge by tax authorities about where multinationals gain profits and pay taxes helps increasing tax fairness and reducing harmful tax competition among EU Member States	x				
Knowledge by tax authorities of advance pricing arrangements, tax rulings and other cross-border arrangements helps increasing tax fairness and reducing harmful tax competition among EU Member States	x				
Knowledge by tax authorities of sellers' incomes earned via online platforms is useful to reduce tax evasion					x

Question 4

Please express your view on the extent to which DAC contributed to the following objectives

	To a large extent	To a moderate extent	To a minor extent	Not at all	No opinion/Don't know
Reducing tax evasion / safeguarding tax revenues for Member States		x			
Increasing transparency of the tax system			x		
Increasing fairness of the tax system			x		
Improve the functioning of the EU Single Market			x		

Question 5

To what extent do the following aspects of DAC work properly?

	To a large extent	To a moderate extent	To a minor extent	Not at all	No opinion/Don't know
Identification of the taxpayers concerned		x			
Identification of the behaviours / arrangements / agreements in scope of reporting		x			
Clear identification of the information to be collected and reported			x		
Criteria for validating or verifying the accuracy of the information collected			x		

Question 6

Please explain how certain aspects could be improved.

- To improve the implementation of DAC, there should be greater alignment among EU Member States in terms of rules interpretation and adoption. Additionally, the scope for reporting should be narrowed to enhance clarity and efficiency.

Question 7

In your opinion, would the same results have been achieved even without DAC (i.e., by means of international agreements only)?

Yes, the same results would have been achieved without DAC	
Most of the same results would have been achieved without DAC	
Some of the results would have been achieved without DAC, but DAC was useful and/or instrumental to most of them	x
No, DAC was essential to achieve these results	
Don't know	

Question 8

Please explain how the same results could have been achieved alternatively, and/or how DAC was useful to achieve them.

- DAC has been instrumental in achieving its goal of facilitating the automatic exchange of tax information amongst EU Member States by enhancing transparency and combating tax evasion. We believe this would not have been possible solely via international agreements.
- However, one area of improvement could be the amount of information and transactions that fall within scope of reporting. Narrowing the reporting scope could enhance clarity and efficiency, thereby reducing the admin burden on entities required to report and ensuring that the most relevant data is collected and exchanged.

Question 9

Are the types of information automatically exchanged under the DAC relevant?

	To a large extent	To a moderate extent	To a minor extent	Not at all	No opinion/ Don't know
Income from employment					x
Pensions					x
Life insurance products					x
Director's fees					x
Capital gains			x		
Information on financial accounts	x				
Information on advance pricing agreements		x			
Information on advance rulings		x			
Country-by-Country reporting		x			
Information on potentially harmful cross border arrangements	x				

Question 10

In your opinion, to what extent is DAC overall coherent with other EU legislation (i.e. AML Directive, ATAD Directive, VAT administrative cooperation regulation, Recovery Directive)?

To a large extent	
To a moderate extent	
To a minor extent	x
Not at all	
No opinion/Don't know	

Question 11

In your opinion, to what extent is DAC overall coherent with the international tax framework (i.e. double taxation conventions, multilateral agreements, BEPS minimum standards)?

To a large extent	
To a moderate extent	x
To a minor extent	
Not at all	
No opinion/Don't know	

Part 2 - FOREIGN INCOMES AND ASSETS

Question 12

Following the entry into force of DAC, what is your perception of the impact on behaviour of the taxpayers?

	Most of the taxpayers concerned	Some of the taxpayers concerned	Few of the taxpayers concerned	Not at all	No opinion / Don't know
Increased reporting of foreign incomes / assets	x				
More taxes paid by taxpayers on foreign incomes / assets		x			
Repatriation of financial assets to the country of residence			x		
Moving financial assets to non-EU countries			x		

Part 3 - TAX TRANSPARENCY

Additional views or information

Question 13

Would you like to add any comments or suggestions on the current functioning of DAC?

The DAC has led to the routine exchange of substantial amounts of information between tax authorities, but there is little public information as to how this information is used. It would be helpful to have greater transparency around the use of this data, so that the effectiveness of the DAC can be assessed.

Whilst the DAC has put more light on the potential harmful tax arrangements, it is also important to consider the potential relocation of such arrangements to jurisdictions that do not share information about EU residents to EU Member States. Exploring better tax transparency initiatives with such jurisdictions could be an opportunity to further safeguard revenue for EU Member States.

Similarly, further consideration should be made for potential tax evasion by individuals earning incomes as well as holding financial assets in jurisdictions that fall out of scope of AEOL.