

## *your* Legal Lab

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### **EU reached agreement regarding automatic exchange of MNEs' tax-related financial information**

At a meeting of the EU Economic and Financial Affairs Council on March 8th 2016, Member States reached a political agreement regarding country-by-country reporting by tax authorities. This reporting will enable Member States to protect their tax base and address MNEs that try to escape paying their fair share of taxes in the country where the profits are made, following the anti-avoidance package issued by the Commission in January 2016.

The Council's agreement provides that multinational groups, which operate cross-border in the EU, will have to report certain tax-related information on an annual basis for each jurisdiction in which they carry out business. The information to be reported includes:

- amount of revenue,
- profit or loss before income tax,
- income tax paid and accrued,
- number of employees,
- stated capital,
- retained earnings and
- tangible assets of the group.

A report including these information shall be filed by the parent company of the group to the tax authority of its country of establishment in Europe, already for the year 2016. Though, if the group's parent company is not an EU tax resident, these information will be provided by its EU subsidiaries. This type of "secondary reporting"

will be optional for the fiscal year 2016 and it will become mandatory in 2017. Once this reporting is completed national tax authorities are required to exchange the information provided automatically, in order to address corporate tax avoidance.

These proposed standards will transpose the OECD Action 13 regarding Transfer Pricing Documentation and Country-by-Country Reporting into a legally binding EU instrument, which will also include the 7 EU Member States that are not members of the OECD. Thus, all MNEs operating in an EU Member State either as parent companies or as subsidiaries will be obliged to provide to the competent tax authorities the required tax-related information.

Once the European Parliament and the national parliaments of the EU Member States have given their opinions, the directive at issue will be adopted by the Council. Upon its adoption Member States will have twelve months to transpose the new regulations into their national laws.

