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DIRECTORATE-GENERAL TAXATION AND CUSTOMS UNION

Direct taxation, Tax Coordination, Economic Analysis and Evaluation  
**Direct Tax Policy & Cooperation**

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**CONSULTATION PAPER**

**– USE OF AN EU TAX IDENTIFICATION NUMBER (TIN) –**

Note:

This document is being circulated for consultation to all interested stakeholders.

The Commission services aim at collecting contributions from all interested stakeholders with a view to translating the suggested action into a concrete legislative proposal. A separate on-line questionnaire identifies the subjects and specific questions on which the Commission services would like to receive contributions.

This document does not necessarily reflect the views of the European Commission and should not be interpreted as a commitment by the Commission to any official initiative in this area. It does not purport either to represent or prejudge any formal proposal of the Commission.

The interested stakeholders are invited to submit their contributions no later than 17 May 2013. They shall do so solely<sup>1</sup> by using the on-line form available under:

<http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=EUTIN>.

Otherwise the contribution will not be published nor will, in principle, its content be taken into account.

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<sup>1</sup> If you have a disability or a condition that might pose difficulties for you when accessing the questionnaire on-line, please indicate us what arrangements you consider necessary to make it possible for you to provide your responses.

## 1. INTRODUCTION

In its Action Plan<sup>2</sup> adopted on 6<sup>th</sup> December 2012 the Commission proposes the use of a European Tax Identification Number (EU TIN). The proposal reads as follows:

*"TINs are considered as providing the best means of identifying taxpayers under automatic exchange of information. The national TINs are however built according to national rules which differ considerably and make it difficult for third parties (financial institutions, employers, other) to correctly identify and register foreign TINs and for the tax authorities to report back this information to the other tax jurisdictions.*

*The creation of an EU TIN might constitute the best solution to overcome the current difficulties faced by Member States in properly identifying all their taxpayers (natural and non-natural persons) engaged in cross border operations. Whether this could be a unique EU number or the addition of an EU identifier to existing national TINs is an issue which should be further explored, as should be explored links with the other existing EU registration and identification systems.*

*Although the concept of an EU TIN is simple, its implementation is a complex issue which calls for a step-by-step approach. A public consultation will be launched by March 2013. The presentation of a subsequent legislative proposal requires further in-depth studies and the strong support of the Member States. As a first step, a possibility would be to further develop the "TIN on EUROPA" portal, by making it possible to check the validity of national TINs by linking this application with Member States' databases."*

This public consultation aims at collecting contributions from all interested stakeholders with a view to possibly translating the suggested action into a concrete legislative proposal.

A separate electronic questionnaire<sup>3</sup> identifies the subjects and specific questions on which the Commission services would like to receive contributions. The questions explore the possible scope of an EU TIN (both in terms of operations and taxpayers concerned), its practical aspects (including possible simplification and step-by-step approach), its design and functioning as well as various legal considerations (a.o. data protection).

## 2. BACKGROUND AND CONTEXT

### 2.1. Current international trends and challenges faced by tax administrations

In recent years, there has been a marked rise in taxpayers' mobility and in the number of cross-border transactions and an increasing internationalisation of financial instruments. These trends make it more difficult for Member States to properly assess and collect taxes due. This undermines the functioning of Member States' taxation systems and may entail double (non-) taxation, which

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<sup>2</sup> Communication ([COM\(2012\)722 final](#)) from the Commission to the European Parliament and the Council on an Action Plan to strengthen the fight against tax fraud and tax evasion

<sup>3</sup> <http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=EUTIN>

itself incites tax fraud and tax evasion. This jeopardises the smooth functioning of the internal market.

As a result of these developments, Member States in administering their national taxation systems, especially as regards direct taxation, have become increasingly dependent on receiving information from other tax jurisdictions. To respond to the increased need for administrative cooperation between the Member States in the field of taxation, new instruments have been developed in recent years.

## **2.2. Extended reporting obligations for economic operators**

Directive 2011/16/EU<sup>4</sup> completely revised and modernised the instruments for administrative cooperation and established new rules, obligations and rights for all Member States. The Directive builds on exchange of information (on request, spontaneously or automatically) as well as other forms of cooperation between tax administrations (presence in administrative offices and participation in administrative enquiries, simultaneous controls, administrative notifications and sharing of best practices and experience).

The evolution towards more administrative cooperation between Member States not only affects tax administrations but potentially also an increasing number of economic operators. Currently, Directive 2003/48/EC on taxation of savings is the only tax instrument<sup>5</sup> at EU level which imposes an obligation on paying agents to systematically record and verify the identification of their beneficial owners and to report such information on a yearly basis to the national tax authorities.

The introduction of new provisions ensuing from enhanced administrative cooperation will not only amend these existing obligations but more importantly could lead Member States to impose new reporting and administrative obligations on other categories of economic operators that were so far subject to limited obligations (mainly in the VAT area).

Indeed, even if this only concerned those specific cross-border operations covered by automatic exchange of information, this could potentially involve a very broad range of economic operators. Directive 2011/16/EU provides for the automatic exchange of available information in respect five new categories and provides for the possibility to review the condition of availability and extend the scope of automatic exchange of information to other categories (dividends, capital gains, royalties) at a later stage.

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<sup>4</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC

<sup>5</sup> Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing also establishes similar recording and reporting obligations for banks, real estate agents and many more companies in order to prevent crime by investigating and reporting usage of cash in excess of €15,000 but the functioning is not exactly the same and in particular it does not involve tax authorities.

As a result, more categories of economic operators may in future be required to report cross-border operations and to establish and report the identity of their customers or counterparts.

### **3. NATIONAL TINs AND ADDED VALUE OF AN EU TAX IDENTIFICATION NUMBER**

The absence of a common approach to the identification of taxpayers impairs the efficiency of administrative cooperation and (automatic) exchange of information in particular. Names, addresses or dates of birth raise various practical issues which make it difficult for third parties (financial institutions, employers, other) to correctly identify and capture the details of non-residents and for the source country tax authorities to correctly report this information to the residence country.

Today, almost all Member States use some form of national TIN. TINs are considered by many tax experts as providing the best means of identifying taxpayers, especially in the area of administrative cooperation and in particular in the context of automatic exchange of information.

Current TINs are however built according to national rules which differ considerably among countries. These differences make it difficult to correctly identify, register and report foreign TINs. These difficulties occur not only in the context of the EU savings directive but for all types of (automatic) exchange of information and they are also experienced by non-EU countries.

The introduction of an EU TIN could resolve these difficulties and facilitate the proper identification of taxpayers engaged in cross-border operations.

### **4. QUESTIONS TO BE EXPLORED BEFORE CREATING AN EU TIN**

According to the Action Plan, the introduction of an EU TIN does not aim at replacing the existing national TINs by a unique EU TIN but rather at maintaining existing national systems and complementing them with an EU TIN to be used in the case of cross-border operations.

Even if the scope of the EU TIN is limited to cross-border operations, many issues will need to be explored:

- What should be the scope of an EU TIN? Should it cover the whole range of cross-border operations or only a subset thereof? Which taxpayers should be assigned an EU TIN and how should specific cases (permanent establishments, transparent entities, foreign operators, foreign intermediate structures...) be dealt with?
- What practical aspects should be considered with regard to e.g. the issuance of EU TIN, its portability, its renewal...?
- What should the design and functioning of an EU TIN? Should it be a unique EU number or should an EU identifier be added to existing TINs? Could simplification be achieved through unification of or harmonisation between the EU TIN and other identification or registration numbers?
- Which legal aspects should be considered? In particular, how will data protection be properly ensured while allowing protecting the financial interests of the Member States?

All of these –legal and practical– questions will need to be explored before the Commission could present any legislative proposal and the Commission would welcome the views of the stakeholders concerned.

## **5. POSSIBLE STEP-BY-STEP INTRODUCTION OF AN EU TIN**

Finally, even if the use of an EU TIN was limited to cross-border transactions, the implications of its introduction should not be underestimated: it would represent a true revolution in the area of direct taxation and, as a consequence, imply considerable changes to all current tax practices and systems.

A step-by-step approach could make it easier to implement improvements quickly as opposed to a fully-fledged solution which may take considerably longer to implement.

### **5.1. Extension of 'TIN on EUROPA' portal in the short-term**

Since December 2012, the "TIN on EUROPA" portal<sup>6</sup> allows third parties, particularly paying agents within the framework of the savings directive<sup>7</sup>, to better identify and register a foreign TIN. It is a two-fold application which contains:

- samples of official documents (identity cards, passports, driving licences, other) where national TINs are registered. It thus allows any third party, and in particular financial institutions, to quickly, easily and correctly identify a TIN in a cross-border relation and to register it properly
- an on-line checking system similar to the VAT Information Exchange System<sup>8</sup> (VIES), that makes it possible to check whether the syntax, or at least the structure, of a given TIN is correct.

Although this portal is particularly useful in the specific context of the savings directive, it is presently of limited use in other areas as it does not cover all countries, only relates to individuals and does not confirm whether the TIN actually exists and is allocated to a particular individual as it is not linked to the existing national databases.

A first step towards the introduction of an EU TIN could thus be to further develop the "TIN on EUROPA" portal by making it possible to check the validity of national TINs by linking this application with the Member States' databases.

Other immediate actions could also consist of developing a dedicated and direct access to certain categories of economic operators in the framework of their tax obligations.

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<sup>6</sup> [http://ec.europa.eu/taxation\\_customs/taxation/tax\\_cooperation/mutual\\_assistance/tin/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/mutual_assistance/tin/index_en.htm)

<sup>7</sup> [http://ec.europa.eu/taxation\\_customs/taxation/personal\\_tax/savings\\_tax/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/index_en.htm)

<sup>8</sup> [http://ec.europa.eu/taxation\\_customs/vies/](http://ec.europa.eu/taxation_customs/vies/)

## **5.2. Creation of an EU TIN in the medium-term**

In the medium term, the creation and use of an EU TIN may constitute the best solution to overcome the current difficulties faced by Member States in properly identifying their taxpayers engaged in cross-border operations. It would allow Member States to cooperate more efficiently at international level and would also make life easier for economic operators and indirectly benefit taxpayers as well.

A phased implementation of such a mid-term action could also be considered, e.g. with a scope limited in the first instance to those cross-border operations subject to automatic exchange of information and possibly extended thereafter to other cross-border operations.

## **6. CONCLUSION**

The idea of creating an EU TIN is extremely interesting and must be pursued. However, it is of the utmost importance for the success of this action to properly evaluate all possible options, including the possibility of adopting a step-by-step approach.

In taking this action forward, it will be important to confirm its exact scope in addition to addressing a large set of practical and legal questions in order to ensure that any resulting proposal will reflect the needs and concerns of stakeholders.

As a first step, and with this consultation, the Commission services would like to receive contributions on the subject of all interested stakeholders

The Commission services also aim to commission a feasibility study to further analyse the pros and cons of an EU TIN, particularly as regards legal, practical and IT aspects. The findings of the study together with the contributions to this consultation will provide the basis for preparing a possible impact assessment and a possible legislative proposal.