



Directive on Administrative Cooperation (DAC)

Evaluation

**Platform for good tax governance
meeting 26 March 2019**

Contents of this presentation:

- 1. Introduction:** overview of DAC; evaluation project overview
- 2. Main findings of the Report** on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation: **SWD(2017) 462 final, 18.12.2017** (*"blue report"*) ●
- 3. Main findings of the Report** on overview and assessment of the statistics and information on the automatic exchanges in the field of direct taxation: **COM(2018)844 final, 17.12.2018** (*"red report"*) ●
- 4. Public Consultation and next steps with the evaluation** (*"yellow report"*) ●

Introduction

Overview of the DAC

Evaluation project overview

Introduction: objectives of the DAC

- The Directive concurs to protect the financial interests of the Member States and the EU, to strengthen the fight against cross-border tax fraud, evasion and avoidance and to ensure that profits are taxed where they are made, contributing to the proper functioning of the internal market and fair competition.
- The Directive has the specific objective to create a **framework for effective and efficient cooperation between the Tax Administrations of the Member States founded on many instruments:**
 - ❖ **exchange of information in three different forms** (automatic, spontaneous and on request);
 - ❖ **the presence** of the officials of tax administrations of a Member State in the territory of another Member State with the agreement of the latter;
 - ❖ **simultaneous tax controls** by two or more Member States on taxpayers of common interest;
 - ❖ the **notification of decisions and instruments concerning tax liability** with the cooperation of other tax authorities.

The evolution of the DAC

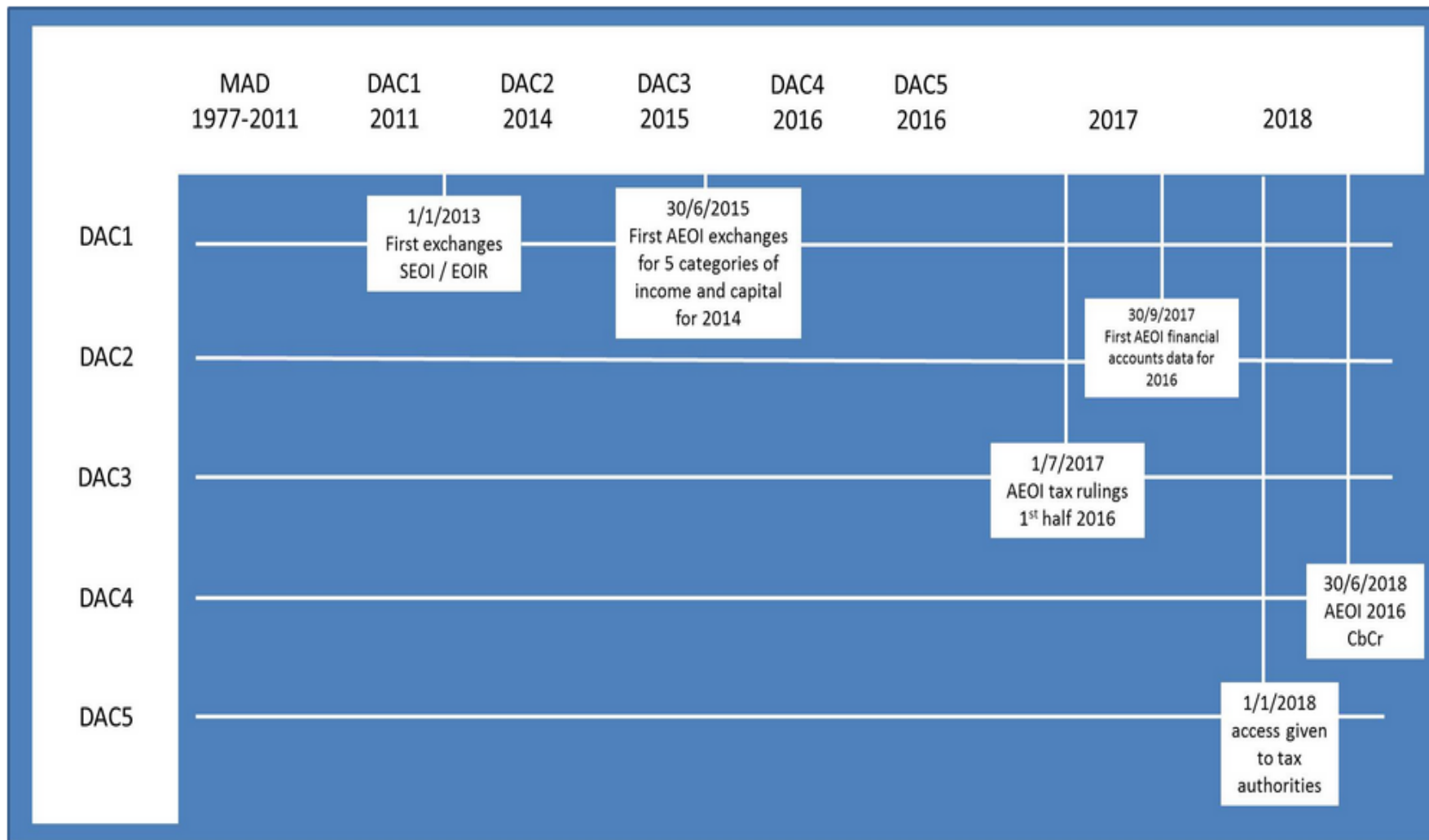
- The Directive 2011/16/EU has been amended **five** times through the following **amending Directives**, most of which have broadened the scope of AEOI originally circumscribed to 5 categories of income and capital (income from employment, directors fees, life insurance products, pensions, ownership of and income from immovable property)
- **2014/107/EU** (hereinafter "**DAC2**") on automatic exchange of financial accounts information;
- **2015/2376/EU** (hereinafter "**DAC3**") on automatic exchange of advance cross-border tax rulings (ATR) and advance pricing agreements (APA);
- **2016/881/EU** (hereinafter "**DAC4**") on automatic exchange of CbC reports;
- **2016/2258/EU** (hereinafter "**DAC5**") as regards access to AML information by tax authorities;
- **2018/822/EU** (hereinafter "**DAC6**") on automatic exchange of information in relation to reportable cross-border arrangements.

The evolution of the DAC: a closer look

Directive on Administrative Cooperation – DAC

DAC1	DAC1	DAC2	DAC3	DAC4	DAC5	DAC6
2011/16/EU	2011/16/EU	2014/107/EU	2015/2376/EU	2016/881/EU:	2016/2258/EU	2018/822/EU
NON AEOI	AEOI ITEMS	AEOI ITEMS	AEOI ITEMS	AEOI ITEMS	NON AEOI	AEOI ITEMS
Applies:1/2013	Applies:1/2015	Applies:1/2016	Applies:1/2017	Applies:6/2017	Applies:1/2018	Applies:7/2020
All exchanges of info except Art. 8	1 st exchanges on 2014 by: 30.6.2015	1st exchanges on 2016 by: 30.9.2017	1st exchanges by 30.9.2017	1st exchanges on 2016 by: 30.6.2018	Art. 22, para 1a	1st exchanges by: 31.8.2020
*Exchanges on request	Art. 8	Art. 8, para 3a	Art. 8a	Art. 8aa	Access by tax authorities to beneficial ownership information as collected under AML rules	Art. 8aaa and hallmarks in Annex 4
*Spontaneous exchanges	*Automatic exchange of information on 5 non-financial categories:	Automatic exchange on financial account information:	Automatic exchange of information (using a central directory as from 1.2018) of:	Automatic exchange of information on country-by-country reports on certain financial information:		*Mandatory disclosure rules for intermediaries and
*Presence in adm. offices	<i>*Income from employment</i>	<i>*Interests, dividends or other income generated by financial account</i>	*Advance cross-border rulings	<i>*Revenues</i>		*Automatic exchange of information on tax planning cross-border arrangements
*Simultaneous controls	<i>*Directors fees</i>	<i>*Gross proceeds from sale or redemption</i>	*Advance pricing arrangements	<i>*Profits</i>		
*Request for notification	<i>*Pensions</i>	<i>*Account balances</i>		<i>*Taxes paid and accrued</i>		
*Sharing best practices	<i>*Life insurance products</i>			<i>*Accumulated earnings</i>		
*Use of standard forms	<i>*Immovable property (income and ownership)</i>			<i>*Number of employees</i>		
				<i>*Certain assets</i>		

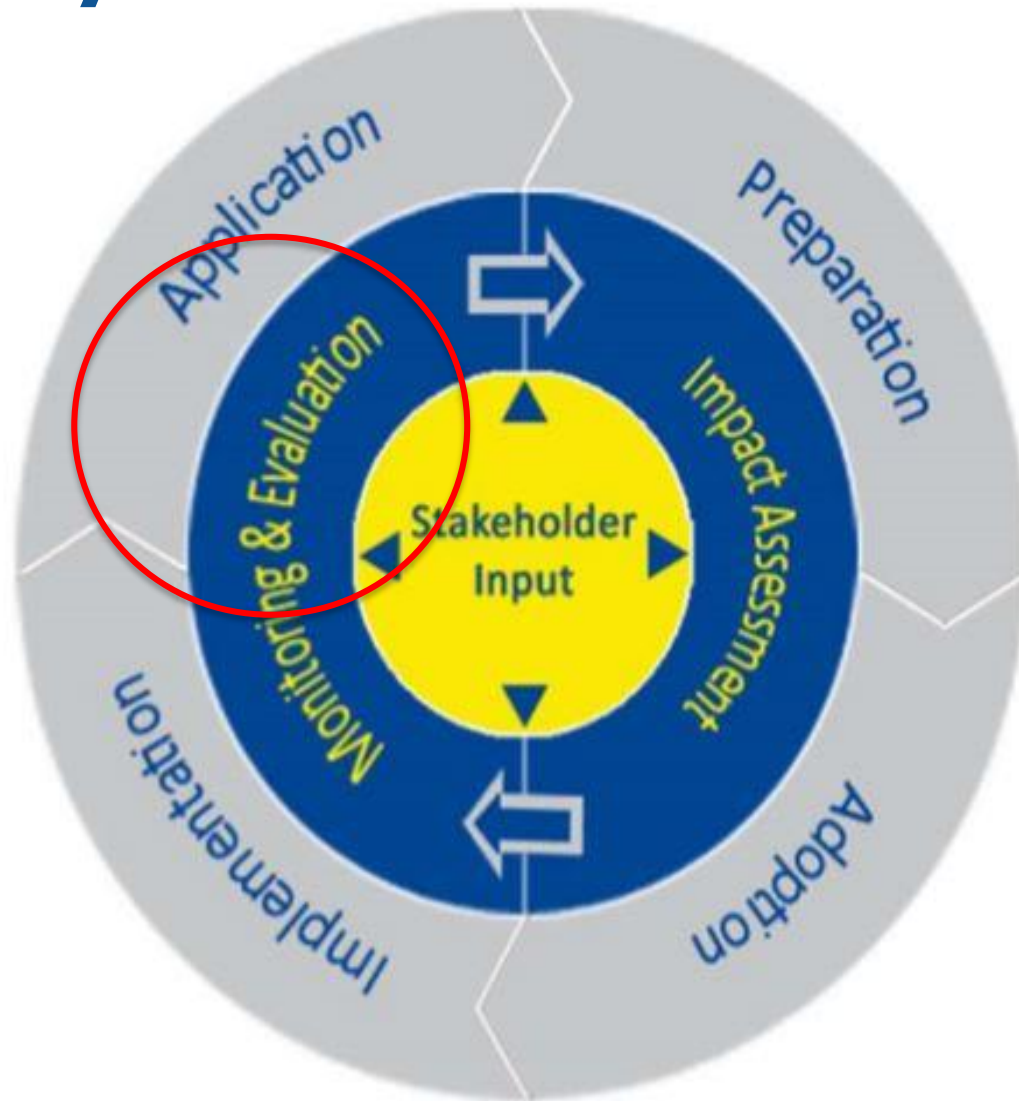
DAC timeline



Evaluation: why and when?

- *5 questions:*
 - **Is DAC efficient?**
 - **Is it effective?**
 - **Is it relevant?**
 - **Is it coherent?**
 - **Does it deliver EU added value?**
- *We have started searching for answers to these questions in 2017; report expected by end June 2019*

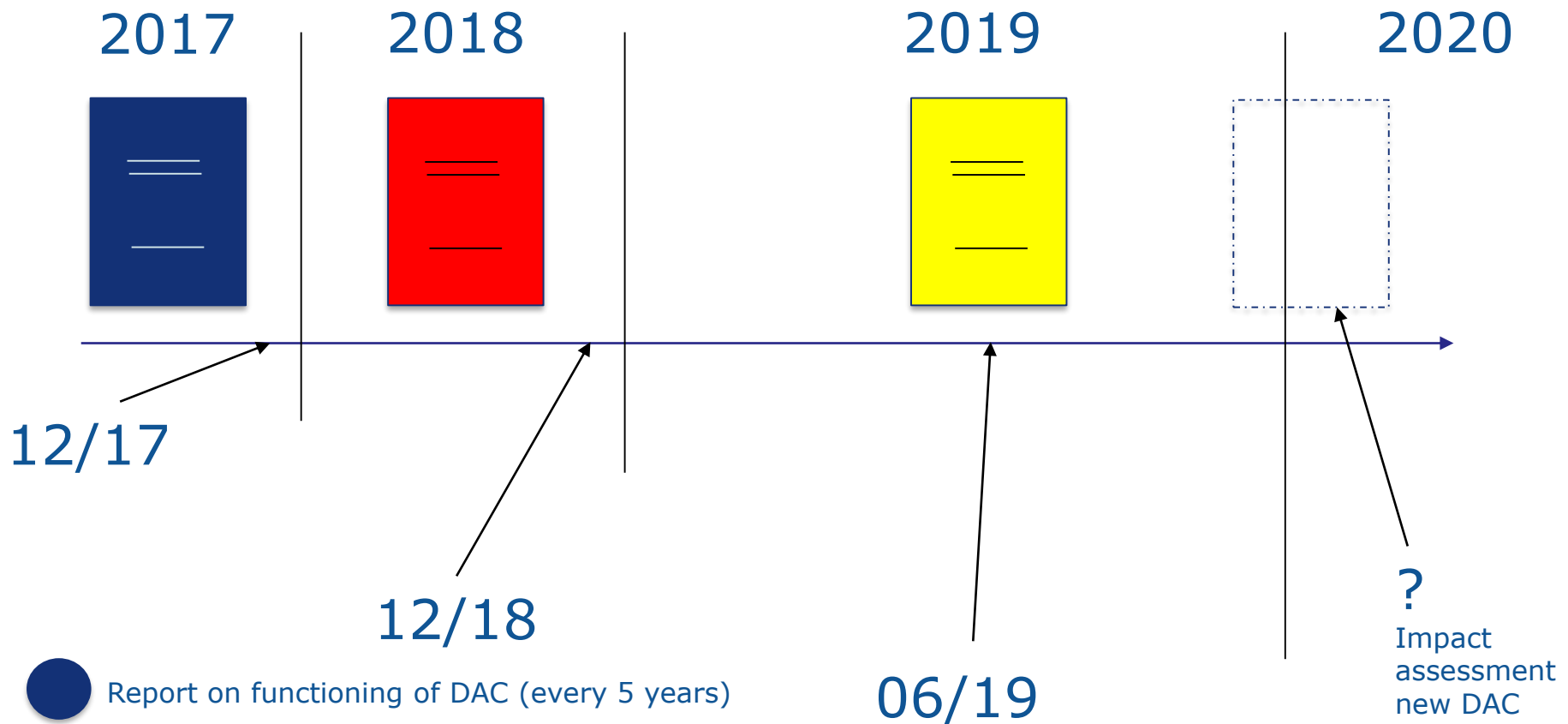
Evaluation: how it fits with the EU policy cycle



EU Policy Cycle

Source: European Commission, Better Regulation Guidelines

DAC evaluation: a step by step project

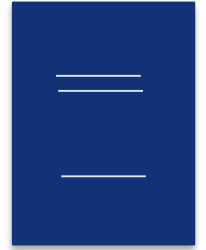


● Report on functioning of DAC (every 5 years)

● Report on AEOI (one-off)

● Working Document on **evaluation** of DAC

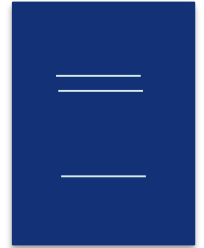
The 2017 report



Key findings

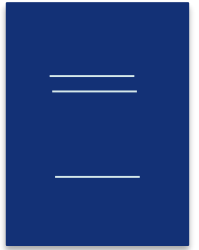
Suggestions for improvement

2017 report: three main findings



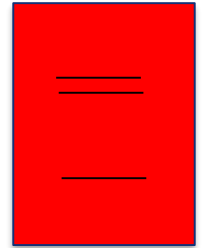
1. **DAC provisions have been implemented but not all of them effectively;**
2. The application of DAC exchange of information has resulted in a **great increase in the amount of data tax administrations have to handle – but on average their capacity to do so has not increased at the same rate;**
3. The **assessment** of the benefits of DAC is carried out at a very **early stage.**

The Three Pillars for improvement



- 1. Comprehensive and transparent DAC implementation** by Member States;
- 2. Improved capacity** for Member States in EU administrative cooperation;
- 3. Better and more transparent data** on the implementation and benefits of DAC provisions.

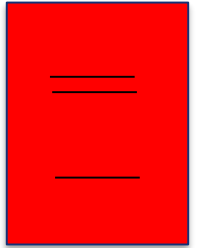
The 2018 report on AEOI



Key findings

Suggestions for improvement

2018 report on AEOI: key findings



- Lots of information exchanged; yet not all of it of sufficient quality and – more importantly – not all of it is put to use.
- A great majority of Member States does not assess the benefits of the exchanges.
- Too early to assess the impact of tax rulings and CbC reports exchanges.

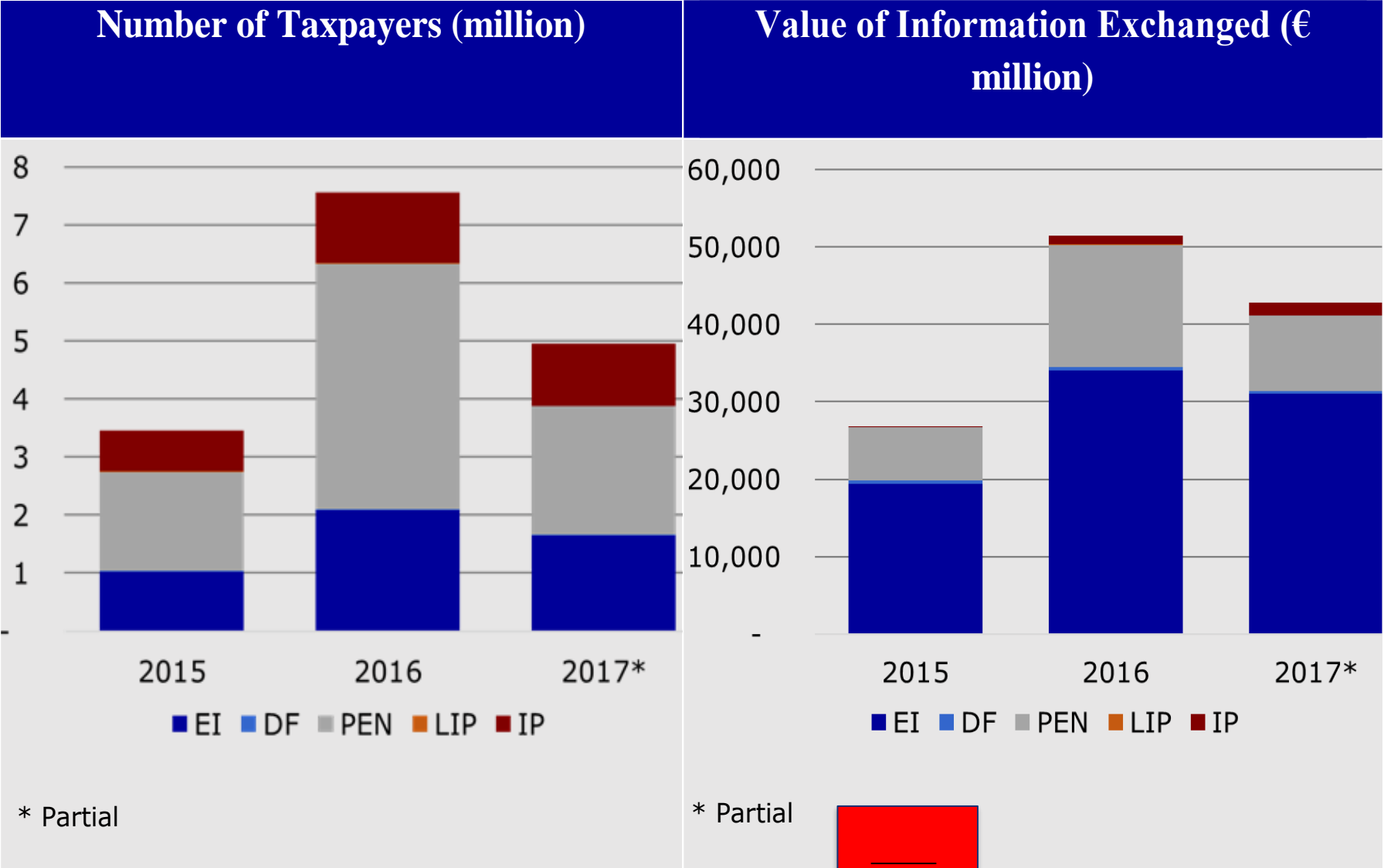


Figure 1. Evolution of DACI Exchanges by Message Year

Main bilateral flows under DAC2

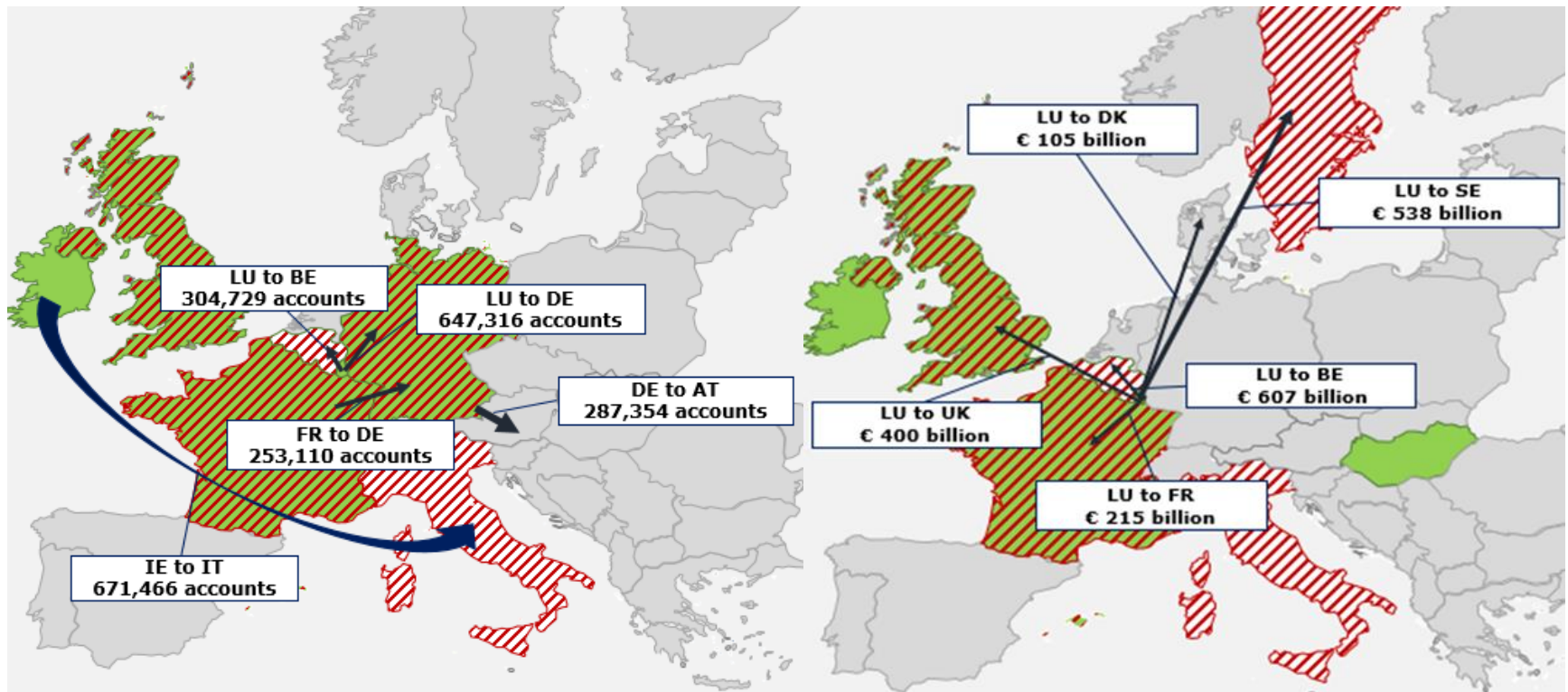
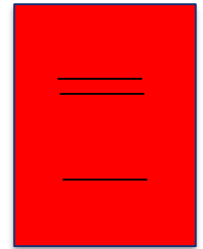


Figure 8. Main Bilateral Flows – Number of Accounts (left) and Value of Information Exchanged (right)

Use of DAC1 information

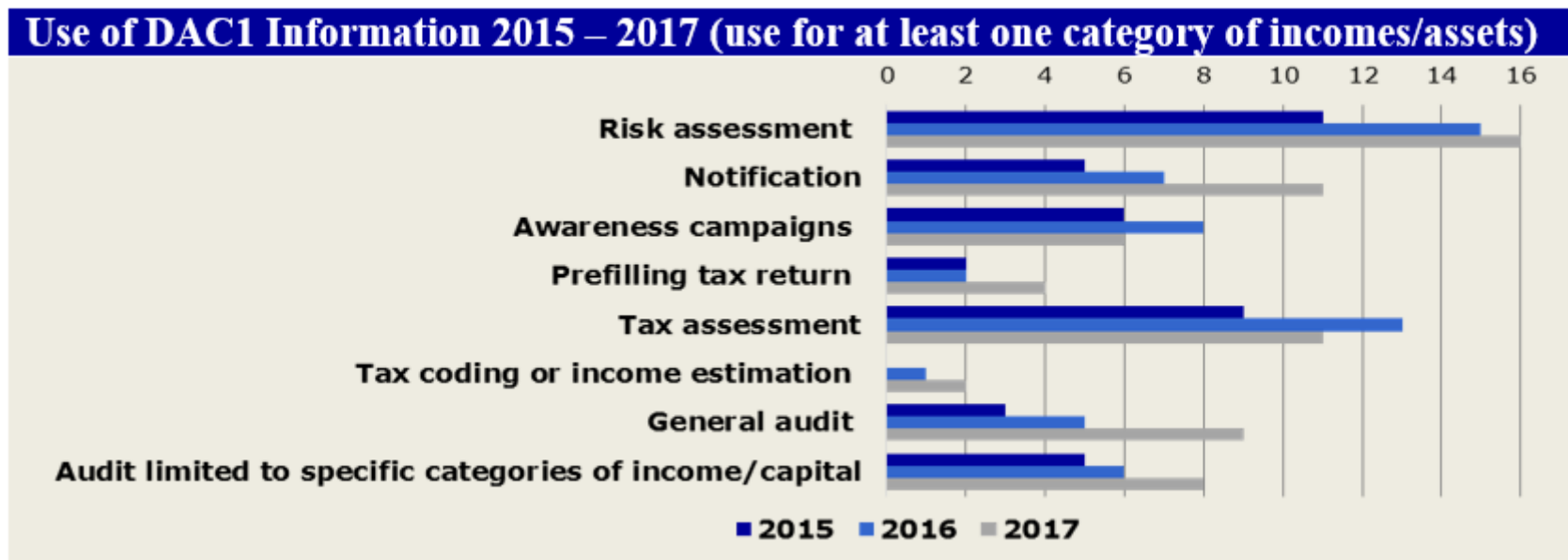
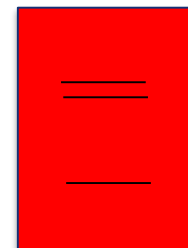
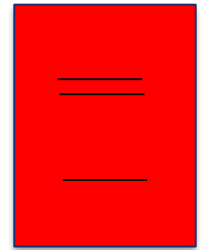


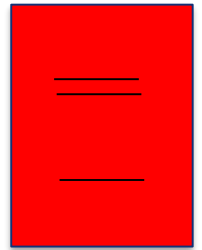
Figure 6. Use of DAC1 information

Benefits of AEOI



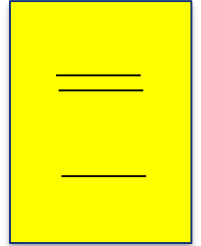
- **Generally, Member States have difficulties in quantifying the benefits of AEOI** in terms of additional tax revenues, level of tax correctness and compliance, completion of the full profile of a risky or a compliant taxpayer and deterrence.
- From monetary data calculated by 4 Member States emerges that **benefits in terms of incremental tax revenue from DAC1 are higher than reported costs.**
- Moreover, it can be observed that **the benefits have increased over the 2015-2017 period**, maybe because of the better use of information exchanged by tax administrations.

Areas of improvement



- **Quality of information:** the sending Member States should **review information** collected before sending it and the receiving Member States should give timely and constructive **feedback** to the sending ones (and also to the financial institutions in case of DAC2)
- **Better use of data received** through **awareness campaigns** and **the combination of AEOI information** with information obtained nationally and received via other forms of administrative cooperation.

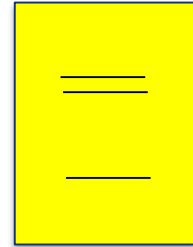
Public consultation



Initial observations

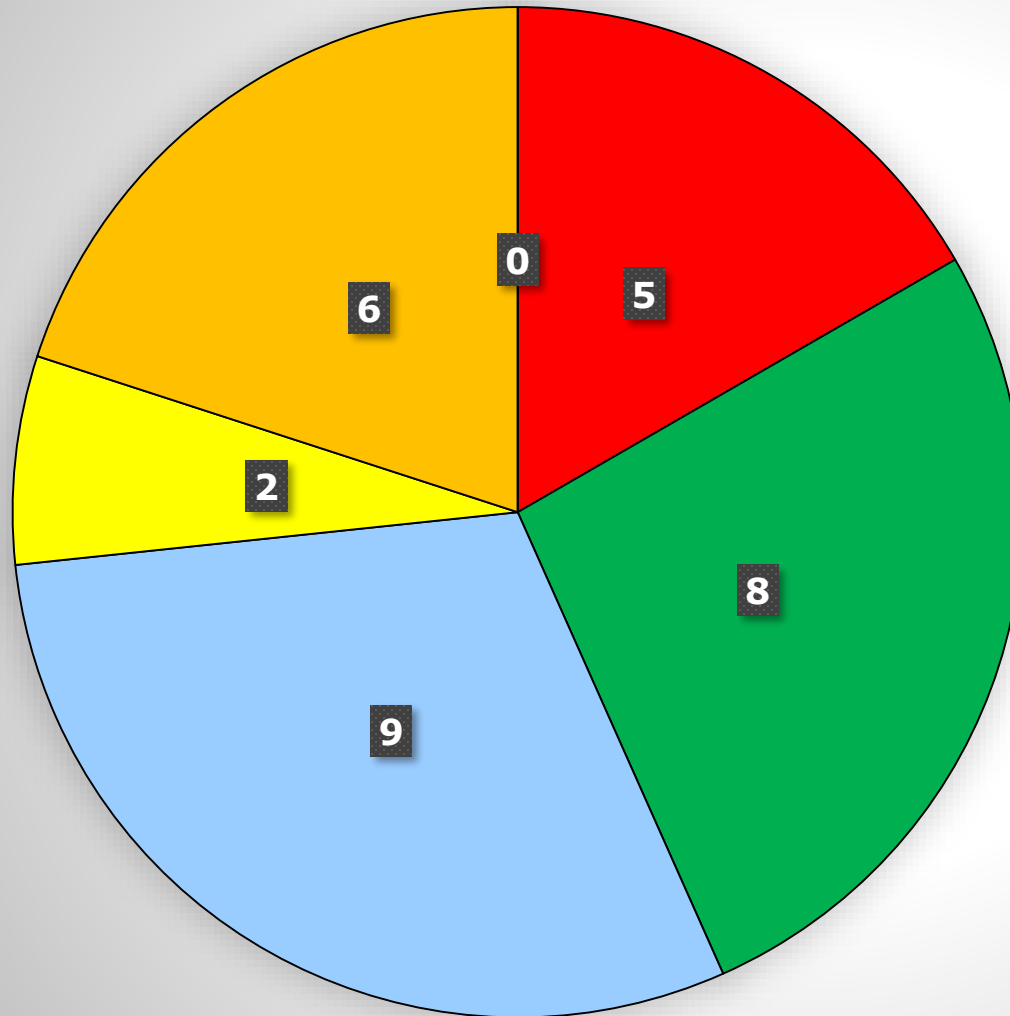
Next steps

Public consultation



- Carried out **from 10 December 2018 to 4 March 2019;**
- **Target audience: general public;** specific sections are addressed to target groups (**individual taxpayers, legal entities or arrangements, providers of tax advice and accountancy services, financial institutions**);
- **30 replies in total.**
 - **Mostly companies and EU citizens;**
 - **Mostly**

Who answered?



■ Business association

■ Company/business organisation

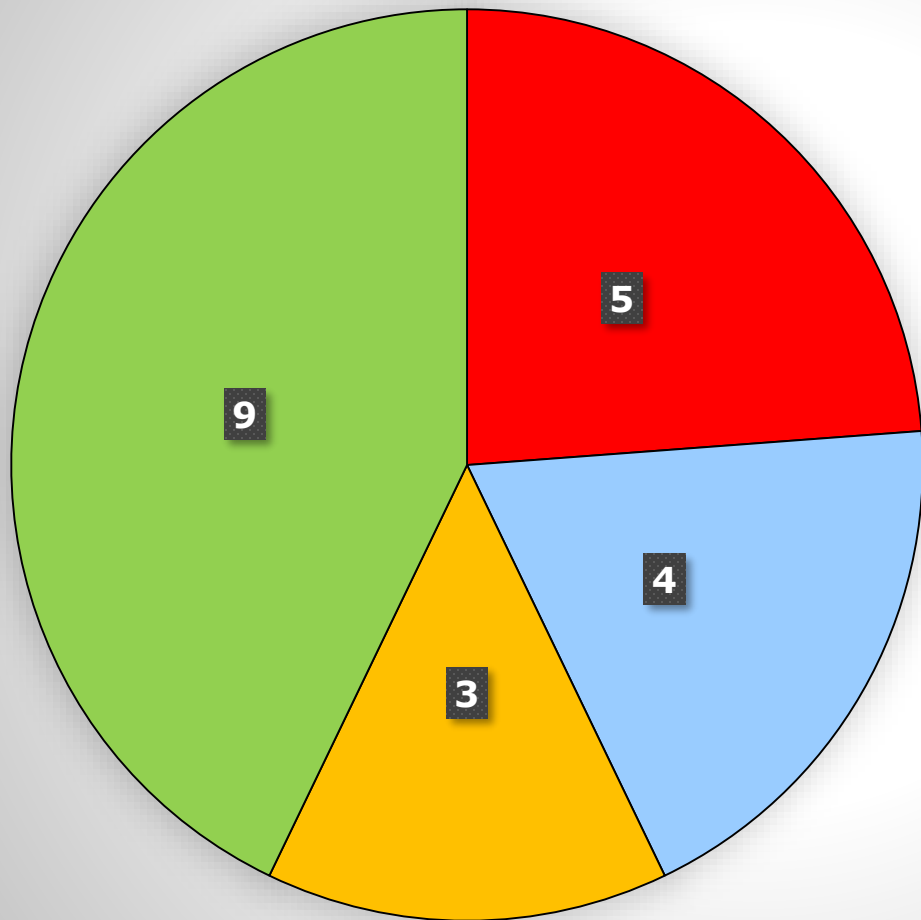
■ EU citizen

■ NGO

■ Other

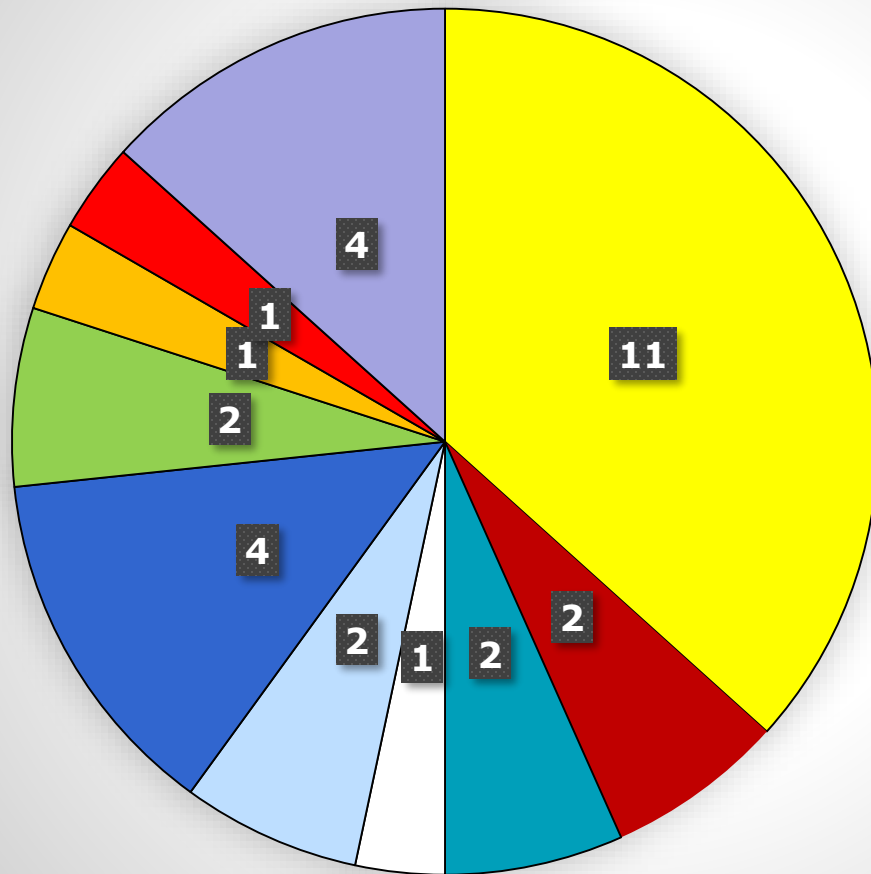
■ Academic/research institution;
consumer organisation;
environmental organisation; non-
EU citizen; public authority; trade
union

Organization size



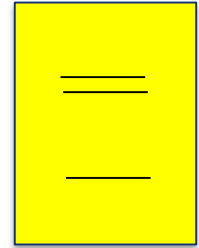
- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Country of origin



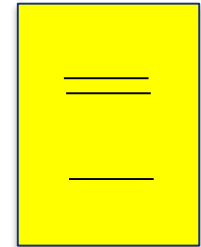
- Belgium
- France
- Germany
- Denmark
- Ireland
- Italy
- Romania
- Spain
- Sweden
- United Kingdom

Public consultation



- Still under “embargo” – work is ongoing
- Initial findings which can be shared:
 - Limited evidence of effect: need to improve quality and (full) use of data...
 - Costs – benefits analysis (efficiency): costs upfront; benefits yet to fully materialise; very limited feedback from MS on benefits
 - Relevant and coherent (with OECD)
 - EU added value? Yes but hard to “put a figure” to it

Next steps



- *Finalise DAC evaluation*
- *Publication planned by end June 2019*
- *Input for the next policy cycle – DACx?*

Thank you for your attention!

Contact: taxud-d2-acdt@ec.europa.eu

Useful links:

2017 report: 

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2017:781:FIN>

2018 report: 

<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1547213738481&uri=CELEX:52018DC0844>

Evaluation roadmap: 

https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-1068597_en

Webpage on **administrative cooperation** (direct taxation):

https://ec.europa.eu/taxation_customs/business/tax-cooperation-control/administrative-cooperation/enhanced-administrative-cooperation-field-direct-taxation_en#Latest%20News