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***ТЕМПЕРИ ЛОДЖИСТИКС ЕООД***

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**Resolution of tax disputes in the European Union**

**The new tax dispute resolution rules apply from July 1, 2019.**. They are set out in [Council Directive 2017/1852 of October 10, 2017](http://c:%5CUsers%5Cvojejas%5CAppData%5CRoaming%5CMicrosoft%5CWord%5C%E2%80%A2%09Council%20Directive%20(EU)%202017%5C1852%20of%2010%20October%202017%20on%20tax%20dispute%20resolution%20mechanisms%20in%20the%20European%20Union/) and bring significant improvements to the resolution of tax disputes, as they ensure that businesses and citizens can resolve disputes related to the interpretation and faster and more efficient application of tax treaties.

The new rules also cover issues related to double taxation, which occurs when two or more countries claim the right to tax the same income or profits of a company or individual. This can happen, for example, due to inconsistencies in national rules or different interpretations of transfer pricing rules in a bilateral tax treaty.

Currently, there are about 900 double taxation disputes in the EU, and their value is estimated at 10.5 billion euros.

As such, taxpayers now enjoy greater legal certainty when it comes to finding solutions to their cross-border tax disputes. In particular, a broader range of cases is covered and Member States must adhere to strict deadlines in order to agree on a binding decision, which gives citizens and companies more timely solutions.

**Procedure mutual consent**

**Mutual** consent procedure **agreement procedure ( MAP )** ) - it is an administrative procedure between the competent authorities of the Member States involved in a tax dispute. During the MAP , the competent authorities try to resolve the dispute. The duration of the Directive for MAP is 2 years, or 3 years if it is extended at the reasonable request of the competent authority.

**Briefly about the dispute resolution procedure**

In the event that a dispute between the competent authorities is not resolved with the help of the **MAP** , the taxpayer may request the establishment of an **Advisory Commission** . The Advisory Commission is composed of the competent authorities of the disputed Member States and three independents (one of whom acts as chairman). These persons are selected from a specially drawn up list to which they are nominated by the Member States in accordance with the Directive.

The competent authorities sitting on the Consultative Commission shall agree on **Rules of Operation** , which detail the procedure. In the event that the Rules of Operation are not brought to the attention of the taxpayer or are not brought to the attention of the taxpayer in full, the participants must use the model [Rules of Operation .](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELLAR%3Aa3fa90c1-675c-11e9-9f05-01aa75ed71a1)

Once established, the Advisory Commission must submit its opinion within 6 months.

**Final Decisions**

After the Advisory Commission presents its opinion, it is brought to the attention of the competent authorities. Based on this opinion, the competent authorities of the Member States concerned shall take the final decision. If they fail to agree on a final decision in time, the conclusion becomes binding on the competent authorities.
The details of the decisions will be published online.

## **Related links**

* [*Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union*](http://eur-lex.europa.eu/eli/dir/2017/1852/oj)
* [*Commission Implementing Regulation (EU) 2019/652 of 24 April 2019 laying down standard rules for the functioning of an Advisory Commission or Commission for Alternative Dispute Resolution, as well as a standard form for the communication of information relating to the promulgation of a final decision in accordance with Council Directive (EU) 2017/ 1852*](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELLAR%3Aa3fa90c1-675c-11e9-9f05-01aa75ed71a1)
* [*Commission proposal for a Council Directive on dispute resolution mechanisms for the avoidance of double taxation in the EU - Annex*](https://taxation-customs.ec.europa.eu/document/download/23259732-a2f5-4f2d-8f20-0ea3bf9d5493_en?filename=com_2016_686_en.pdf)