

PRACTICAL EXPERIENCE OF ADMINISTRATIVE COOPERATION IN SLOVENIA

Seminar on administrative cooperation in tax matters
Ljubljana, 5. - 6. 10. 2017

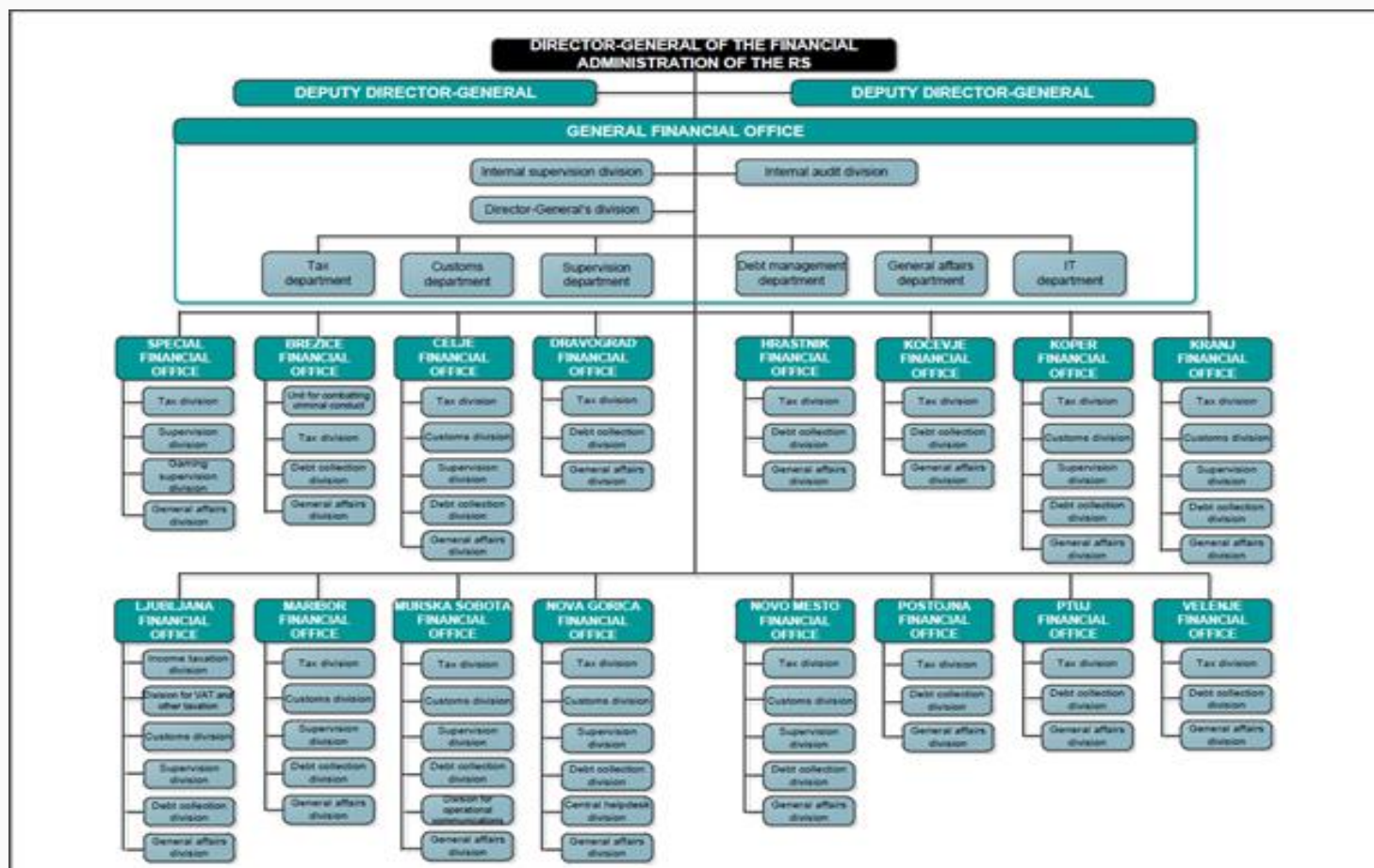
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THE FINANCIAL ADMINISTRATION OF THE RS

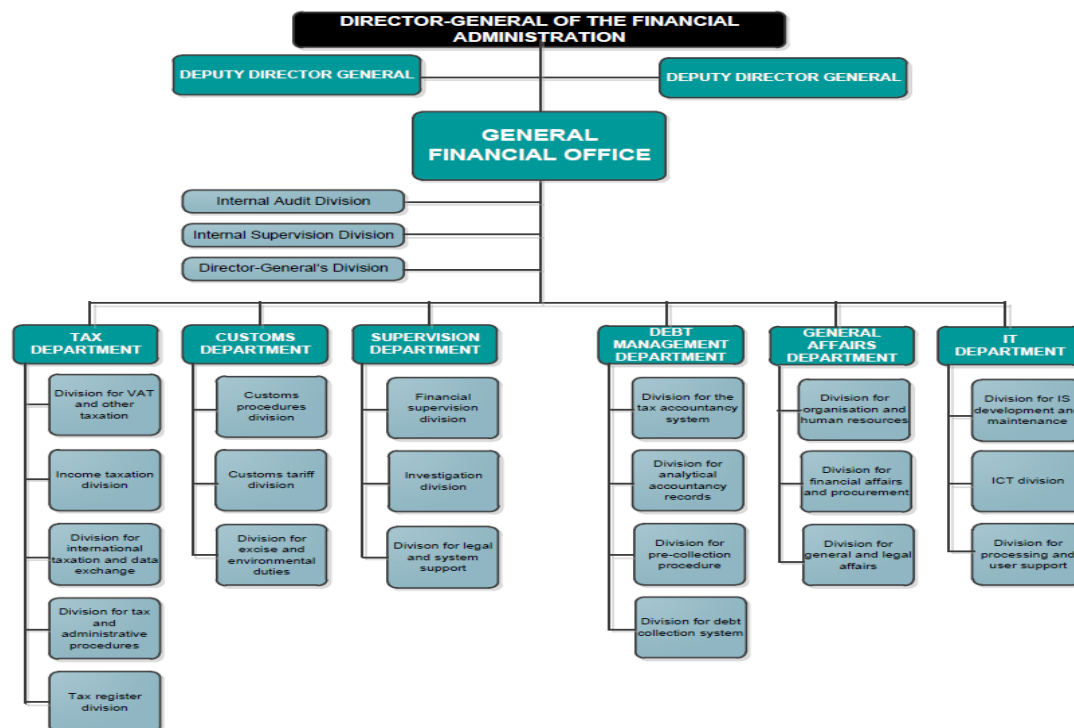
- ❖ Merger of Tax and Customs Administration;
- ❖ The Financial Administration of the Republic of Slovenia is an administrative body within the Ministry of Finance;
- ❖ The Financial Administration consists of the General Financial Office, 15 regional offices and the Special Financial Office



ORGANISATIONAL CHART OF THE FINANCIAL ADMINISTRATION OF THE RS



ORGANISATIONAL CHART OF THE GENERAL FINANCIAL OFFICE



LEGAL BASIS FOR ADMINISTRATIVE COOPERATION IN THE FIELD OF DIRECT TAXATION IN SLOVENIA

Tax Procedure Act (Official Journal RS, no. 13/11-official consolidation version, 32/12, 94/12, 101/13-ZDavPNepr, 111/13, 25/14-ZFU, 40/14-ZIN-B, 90/14, 91/15 in 63/16)

- ❖ **Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation (DAC1); amended by**
 - Council Directive 2014/107/EU of 9 December 2014 (DAC2);
 - Council Directive 2015/2376/EU of 8 December 2015 (DAC3);
 - Council Directive 2016/881/EU of 25 May 2016 (DAC4);
 - Council Directive 2016/2258 of December 2016 – as regards access to anti-money-laundering information by tax authorities (applied from 1. 1. 2018).
- ❖ **Double Taxation Agreements – based on Article 26 of OECD Tax Convention**
(http://www.fu.gov.si/fileadmin/Internet/Davki_in_druge_dajatve/Podrocja/Mednarodno_obdavcenje/Zakonodaja/Seznam_veljavnih_MP.pdf)
- ❖ **Convention (CE/OECD) on Mutual Administrative Assistance in Tax Matters**
(<http://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>)
- ❖ **TIEA – Tax Information Exchange Agreement**
- ❖ **MoU – Memorandum of Understanding**

FRAMEWORK FOR ADMINISTRATIVE COOPERATION IN THE EU

Council Directive 2011/16/EU (DAC1)	Council Directive 2011/16/EU (AEOI DAC1)	Council Directive 2014/107/EU (AEOI DAC2)	Council Directive 2015/2376/EU (AEOI DAC3)	Council Directive 2016/881/EU (AEOI DAC4)	Council Directive 2016/2258/EU (DAC5)
<p>Taxes of any kind (excluding VAT, customs and excise duties)</p> <p>New framework and tools (incl. removal of banking secrecy, standard foreseeably relevance, use e-forms, etc.)</p> <p>Type of exchange:</p> <ul style="list-style-type: none"> ❖ Exchange on request; ❖ Spontaneous exchange of information; ❖ Automatic exchange of information ❖ Presence in administrative offices and participation in administrative enquiries ❖ Simultaneous controls ❖ Administrative notification 	<p>Automatic exchange of information on 5 categories of income and capital</p> <ul style="list-style-type: none"> ❖ Income from employment ❖ Director's fees ❖ Life insurance products ❖ Pensions ❖ Ownership of and income from immovable property 	<p>Automatic exchange of financial account information;</p> <ul style="list-style-type: none"> ❖ Interests, ❖ Dividends, ❖ Gross proceeds from sale or redemption ❖ Other income ❖ Account balances 	<p>Automatic exchange of information on advance cross-border ruling and advance pricing arrangement (using a central directory)</p> <p>BEPS action 5</p>	<p>Automatic exchange of information on Country by Country Reporting on certain financial information:</p> <ul style="list-style-type: none"> ❖ Revenues ❖ Profits ❖ Taxes paid and accrued ❖ Accumulated earnings ❖ Number of employees ❖ Certain assets <p>BEPS action 13</p>	<p>Access to anti-money laundering information by tax authorities</p>
1 January 2013	1 January 2015	1 January 2017	1 January 2017	1 June 2017	1 January 2018

COMPETENT AUTHORITY

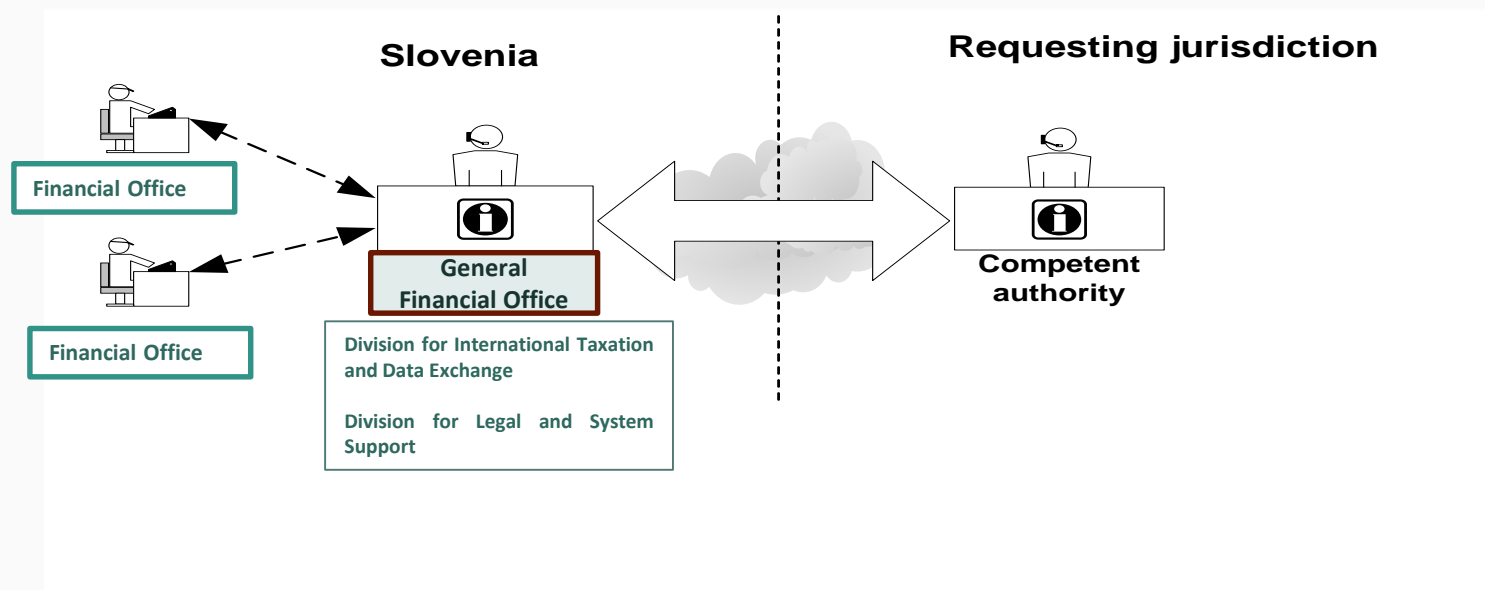
INFORMATION IS EXCHANGED BETWEEN COMPETENT AUTHORITIES OR DESIGNATED OFFICES.

- ❖ The Ministry of Finance is the competent authority of Slovenia for exchange of information purposes. In addition, Ministry of Finance has designated the Financial Administration of the Republic of Slovenia to carry out tasks of exchange of information in the field of taxation.
- ❖ The Financial Administration of the Republic of Slovenia - General Financial Office has been designated under the Tax Procedure Act and under the Rules implementing Tax Procedure Act.

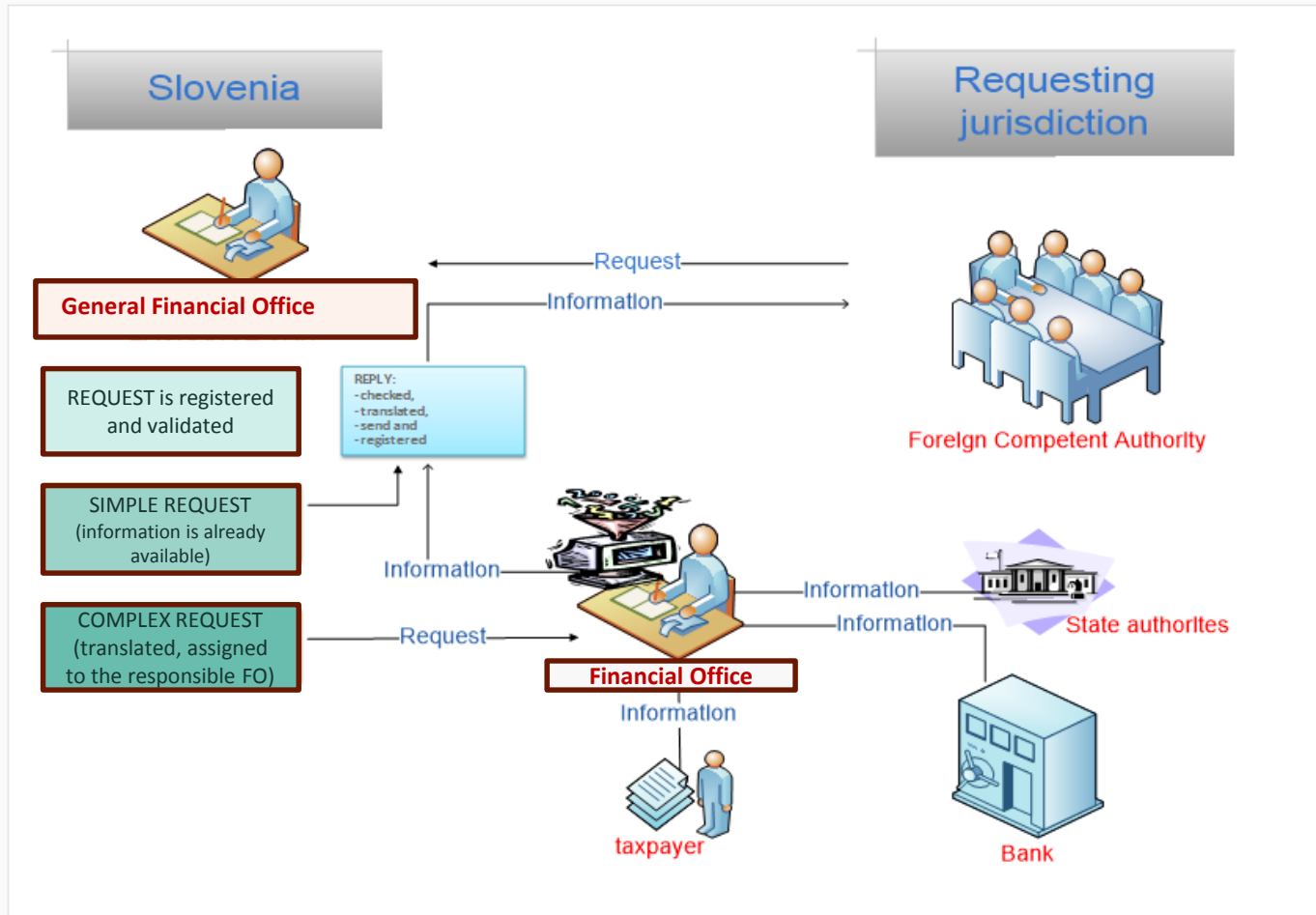
TYPES OF INFORMATION EXCHANGE

- ❖ **Exchange of information on request** – one competent authority asks for particular information in a specific case from another competent authority (standard of „foreseeably relevance“ has to be respected, „fishing expeditions“ are not allowed, possibility of group request);
- ❖ **Spontaneous exchange of information** – one competent authority possesses information that might be interesting for another competent authority - information shall be send spontaneously without a prior request;
- ❖ **Automatic exchange of information** where competent authorities automatically exchange certain categories of information in a prescribed manner, without a prior request;
- ❖ **Assistance in notifying documents (request for notification)** – one competent authority may ask another competent authority to notify instruments and decisions to the addressee;
- ❖ **Simultaneous controls** – an arrangement between competent authorities to examine simultaneously each in its own territory, the tax affairs of taxpayer in which they have a common or related interest, with a view of exchanging any relevant information;
- ❖ **Presence in administrative offices and participation in administrative enquiries** – agreement between competent authorities about presence of tax officials in the offices of another competent authorities and/or presence during administrative enquiries carried out in the territory of another State.

ADMINISTRATIVE COOPERATION



EXCHANGE OF INFORMATION ON REQUEST



STATISTICS (requests/spontaneous information)

	EU Member States			Non-EU States		
	2015	2016	6/2017	2015	2016	6/2017
No. of request sent	245	102	78	5	10	5
No. of request received	46	63	26	3	16	2
Total	291	165	104	8	26	7
Spontaneous inf. sent	25	7	19	1	3	0
Spontaneous inf. received	56	275	13	2	2	0
Total	81	282	32	3	5	0

AVAILABILITY OF AND ACCESS TO INFORMATION

COMPETENT AUTHORITIES SHOULD HAVE THE POWER TO OBTAIN AND PROVIDE INFORMATION SUBJECT TO A REQUEST UNDER AN EXCHANGE OF INFORMATION ARRANGEMENT.

- ❖ In Slovenia the same gathering measures are used for domestic and exchange of information purposes;
- ❖ The Financial Administration has the power to obtain and provide information, subject to a request. The power to obtain information for tax purposes is provided for in the Tax Procedure Act;
- ❖ The persons referred to in Article 31 of the Tax Procedure Act and other persons legally authorised to establish, manage and update databases, registers and other records **must provide the tax authority with access to all information** needed for tax collection and enable it to consult their documents (Article 39);
- ❖ Where the requested information is in possession of other institutions and is not in possession of the tax authority the information can be obtained **by written request or on-the-spot**.

TAX REGISTER

Tax Register of the Republic of Slovenia is a computerized and uniform database of taxable persons. It is connected to other state records and kept by the Financial Administration of the Republic of Slovenia on the basis of the tax numbers and other information required by the Slovenian Financial Administration Act.

The following shall be entered in the tax register:

- ❖ operators registered in the Slovenian Court Register of Legal Entities;
- ❖ natural persons (individuals) having permanent residence in the Republic of Slovenia;
- ❖ natural persons (individuals) having temporary residence in the Republic of Slovenia;
- ❖ sole traders;
- ❖ other legal and natural persons engaged in business and recorded in other registers or records of the Republic of Slovenia;
- ❖ legal and natural persons not having a seat or some other registered form in the Republic of Slovenia, but engaged in business in Slovenia;
- ❖ associations of persons under foreign law without legal personality;
- ❖ direct users of the state or municipal budget;
- ❖ persons not covered by the preceding indents.

CONFIDENTIALITY

EACH JURISDICTION SHOULD HAVE ADEQUATE PROVISIONS TO ENSURE THE CONFIDENTIALITY OF INFORMATION RECEIVED.

- ❖ Legal framework to protect the tax confidentiality of information exchanged is in Slovenian Tax Procedure Act (TPA) and Rules implementing Tax Procedure Act.
- ❖ Slovenian tax authorities treat as confidential any information received or provided under any information exchange mechanism.
- ❖ Any information received under international instrument is treated as confidential in the same manner as information obtained under the domestic laws.
- ❖ Information may be disclosed only to persons or authorities involved in tax-related procedures and used only for authorized purposes.

AUTOMATIC EXCHANGE OF INFORMATION

Automatic exchange of information – systematic exchange of pre-defined information at pre-established regular intervals

HISTORY:

- ❖ OECD SMF/STF FORMAT (income from immovable properties, business profits, dividends, interests, royalties, capital games, income from independent/dependent personal services, directors' fees, income of an artists and sportsmen, pensions, income from government services and public pensions, payments to students, other income)
- ❖ Council Directive 2003/48/EC on taxation of savings income in the form of interest payments;
- ❖ Council Directive 2011/16/EU on administrative cooperation in the field of taxation
- ❖ US FATCA (Foreign Account Tax Compliance Act)
- ❖ Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS – Common Reporting Standard)
- ❖ Automatic/Mandatory spontaneous exchange of information on advance cross border rulings and advance pricing arrangements and Country by Country Reporting

AEOI DAC1

AUTOMATIC EXCHANGE OF INFORMATION THAT IS AVAILABLE ON FOLLOWING CATEGORIES OF INCOME AND CAPITAL (available information regarding taxable persons as from 1 January 2014):

- ❖ **INCOME FROM EMPLOYMENT;**
- ❖ **DIRECTOR'S FEES;**
- ❖ **LIFE INSURANCE PRODUCTS NOT COVERED BY OTHER UNION LEGAL INSTRUMENTS ON EXCHANGE OF INFORMATION;**
- ❖ **PENSIONS;**
- ❖ **OWNERSHIP OF AND INCOME FROM IMMOVABLE PROPERTY**

Slovenian Tax Procedure Act:

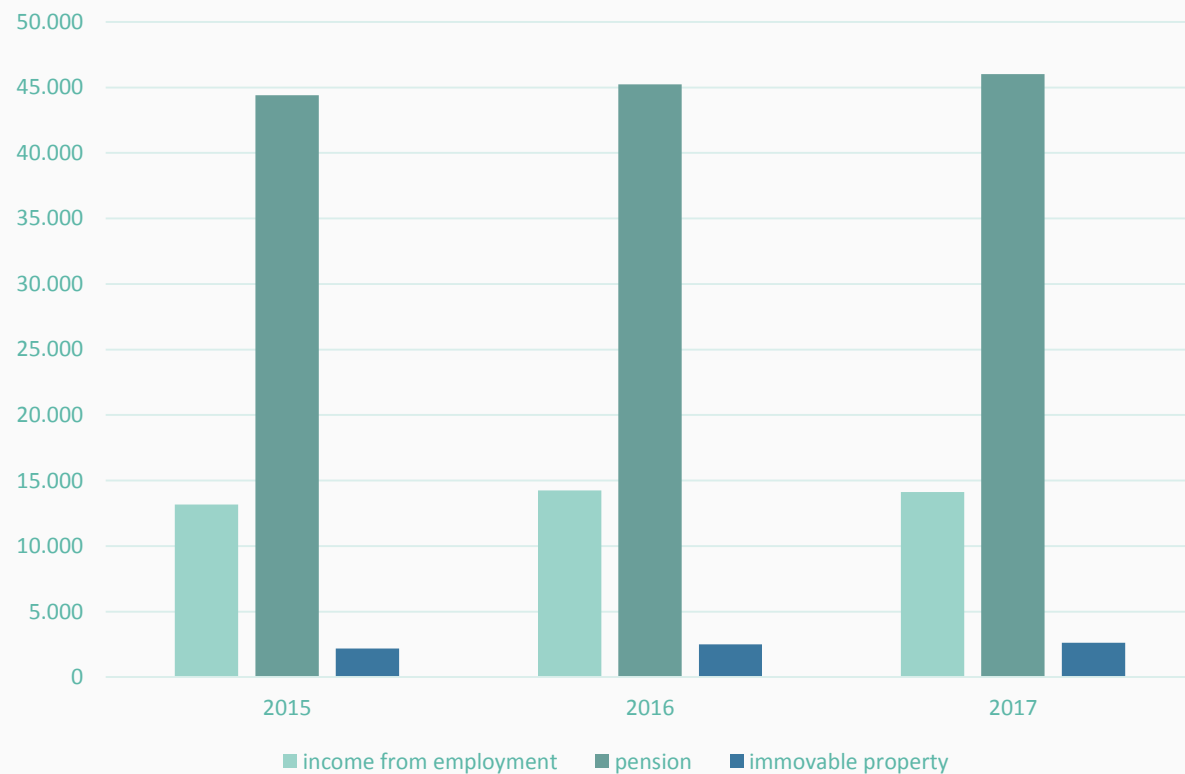
- **Article 243. a – definition of the automatic exchange of information**
- **Article 248 – scope of automatic exchange of information**



ANALYSIS

- AEOI DAC1
- INFO. SENT

No. of data sent





ANALYSIS

- AEOI DAC1
- INFO. RECEIVED

No. of data received



AGREEMENT BETWEEN THE GOVERNMENT OF THE RS AND THE GOVERNMENT OF THE USA TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT FATCA



Signed: 2 June, 2014

Tax Procedure Act – chapter VI. Part Four (International Cooperation in Tax Matters)

Rules implementing Tax Procedure Act - Part 12, Annex 18

FATCA EXCHANGES	No. of information exchange in 2015	No. of information exchange in 2016	No. of information exchange in 2017
Information sent	461	896	964
Information received	4.128	1.144	1.099

MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION



Berlin, 2014

Total number of signatories
(June 2017) 101.

Council Directive 2014/107/EU
amending Directive
2011/16/EU as regards
mandatory automatic
exchange of information in the
field of taxation

Tax Procedure Act – chapter III.
A Part Four (International
Cooperation in Tax Matters)

Rules Implementing Tax
Procedure Act - Part 12, Annex
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AUTOMATIC/ MANDATORY SPONTANEOUS EXCHANGE OF INFORMATION ON ADVANCE CROSS-BORDER RULINGS AND ADVANCE PRICING ARRANGEMENT (APA)

- ❖ **Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation;**
- ❖ **Article 9 of Council Directive 2011/16/EU;**
- ❖ **OECD/G20 Base Erosion and Profit Shifting Project (BEPS): Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, ACTION 5**

The Tax Procedure Act (chapter II. Part Four - International Cooperation in Tax Matters)

- ❖ Article 243.a – definition of the advance cross-border rulings and advance pricing arrangement
- ❖ Article 248. a – scope of automatic exchange of information on advance cross-border rulings and advance pricing arrangement
- ❖ Article 249 – spontaneous exchange of information

MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON THE EXCHANGE OF CbC REPORTS (CONTRY BY COUNTRY REPORTING)

Paris, 2016

Total number of signatories (till 30 June 2017) 50.

Council Directive 2016/881/ EU amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation

Tax Procedure Act

- Article 248. b – automatic exchange of CbCR
- Chapter III.B, Part Four (International Cooperation in Tax Matters)

Rules Implementing Tax Procedure Act
- Part 12, Annex 21



Thank you for your attention!