

Amendment 64
Gunnar Beck

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) It is necessary to strengthen the mechanisms of Directive 2011/16/EU regarding the presence of officials of the tax administration of one Member State in the territory of another Member State and the carrying out of simultaneous controls by two or more Member States in order to ensure their effective application. It follows that responses to requests for the presence of officials of another Member State and for simultaneous controls should be provided within a specified timeframe. *Where* foreign officials *are* present in the territory of another Member State during an administrative enquiry, or *participate* through the use of electronic means of communication, *they should be allowed* to directly *interview* individuals and *examine* records.

Amendment

(17) It is necessary to strengthen the mechanisms of Directive 2011/16/EU regarding the presence of officials of the tax administration of one Member State in the territory of another Member State and the carrying out of simultaneous controls by two or more Member States in order to ensure their effective application. It follows that responses to requests for the presence of officials of another Member State and for simultaneous controls should be provided within a specified timeframe. *Participation of* foreign officials present in the territory of another Member State during an administrative enquiry, or through the use of electronic means of communication *shall not include active participation such as the right* to directly *interviewing* individuals and *examining* records, *unless explicitly permitted by the Member State where the inquiry takes*

place.

Or. en

Amendment 68

Gunnar Beck

Proposal for a directive

Recital 20

Text proposed by the Commission

Amendment

(20) Member States should adopt a clear and efficient legal framework to allow their tax authorities to perform joint audits of persons with cross-border activity. Joint audits are administrative enquiries conducted jointly by the competent authorities of two or more Member States, to examine a case linked to one or more persons of common or complementary interest to these Member

deleted

States. Joint audits can play an important role in contributing to the better functioning of the internal market. Joint audits should be structured to offer legal certainty to taxpayers through clear procedural rules, including for mitigating the risk of double taxation.

Or. en

Amendment 70
Gunnar Beck

Proposal for a directive
Recital 21

Text proposed by the Commission

Amendment

(21) In order to ensure the effectiveness of the process, responses to requests for joint audits should be provided within a given timeframe. Rejections of requests should be duly justified. The procedural arrangements applicable to a joint audit should be those of the Member State where the relevant audit action takes place. Accordingly, evidence collected during a joint audit should be mutually recognised by the participating Member State(s). It is equally important that the competent authorities agree on the facts and circumstances of the case and endeavour to reach an agreement on how to interpret the tax position of the audited person(s). In order to ensure that the outcome of a joint audit can be implemented in the participating Member States, the final report should have equivalent legal value to the relevant national instruments that are issued as a result of an audit in the participating Member States. Where necessary, Member States should provide the legal framework for the performance of a corresponding adjustment.

deleted

Or. en

Amendment 109
Gunnar Beck

Proposal for a directive
Article 1 – paragraph 1 – point 8 – point a
Council Directive 2011/16/EU
Article 11 – paragraph 1 – point (c)

Text proposed by the Commission

Amendment

(c) participate in the administrative

deleted

enquiries carried out by the requested Member State through the use of electronic means of communication, where appropriate.

Or. en

Justification

The Member State where the administrative enquiry is carried out shall be the sole acting authority on its territory. Participation by authorities of other Member States shall only concern their presence, as stated in Article 11, paragraph 1 (a) and (b).

Amendment 111
Gunnar Beck

Proposal for a directive

Article 1 – paragraph 1 – point 8 – point b

Council Directive 2011/16/EU

Article 11– paragraph 2

Text proposed by the Commission

Amendment

(b) In paragraph 2, the first subparagraph is replaced by the following:

deleted

‘Where officials of the requesting authority are present during administrative enquiries, or participate through the use of electronic means of communication, they may interview individuals and examine records.’

Or. en

Justification

The Member State where the administrative enquiry is carried out shall be the sole acting authority on its territory. Participation by authorities of other Member States shall only concern their presence, as stated in Article 11, paragraph 1 (a) and (b). Interviews and examination of records shall fall under the exclusive competence of the Member State where the administrative enquiry is carried out.