Commission Implementing Regulation (EU) 2017/1966 of 27 October 2017 amending Implementing Regulation (EU) No 1189/2011 as regards the communication of assistance requests and the follow-up to those requests

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1966

of 27 October 2017

amending Implementing Regulation (EU) No 1189/2011 as regards the communication of assistance requests and the follow-up to those requests

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, and other measures[(1)], and in particular Article 26 thereof,

Whereas:

(1) Commission Implementing Regulation (EU) No 1189/2011[(2)] lays down detailed rules concerning the communication of tax recovery assistance requests, the follow-up of those requests, the use of standard request forms and uniform instruments between the authorities in Member States and the transfer of recovered amounts in relation to certain mutual assistance provisions of Directive 2010/24/EU.

(2) In order to ensure that the applicant Member State is fully informed about the follow-up of a request for notification, it is appropriate to specify that the requested authority should inform the applicant authority about the manner of notification.

(3) In order to facilitate the handling of requests for precautionary measures, a standard form for the communication of specific reasons and circumstances for such requests should be developed.

(4) In order to ensure legal certainty, it is appropriate to specify which claims can be mentioned in the uniform instrument permitting enforcement in the requested Member State.

(5) In order to facilitate the handling of requests for recovery, the rules concerning the exchange rate and the transfer of recovered amounts should be adapted and it should be clarified how an increase in the amount of a claim should be communicated.

(6) The structure and lay-out of the standard form accompanying the request for notification and of the uniform instrument permitting enforcement in the requested Member State should be also adapted so as to align them to the requirements of an electronic communication system and for future use in international agreements.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Recovery Committee,

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1966. (See end of Document for details)*

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1189/2011 is amended as follows:

(1) in Article 12, paragraph 2 is replaced by the following:

2. The requested authority shall inform the applicant authority of the date and the manner of notification as soon as this has been effected, by certifying the notification in the request form returned to the applicant authority.;

(2) Article 15 is replaced by the following:

Article 15

1 Requests for recovery or for precautionary measures shall include a declaration that the conditions laid down in Directive 2010/24/EU for initiating the mutual assistance procedure have been fulfilled.

2 In case of a request for precautionary measures, this declaration may be supplemented by a declaration specifying the reasons and circumstances of the request, established in accordance with the model set out in Annex III.;

(3) Article 16 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. A single uniform instrument permitting enforcement in the requested Member State may be issued in respect of several claims and several persons, corresponding to the initial instrument or instruments permitting enforcement in the applicant Member State.;

(b) the following paragraphs 3a and 3b are inserted:

3a. Where the initial instrument referred to in paragraph 2 or the global instrument referred to in paragraph 3 contains several claims, one or more of which have already been collected or recovered, the uniform instrument permitting enforcement in the requested Member State shall only refer to those claims for which recovery assistance is requested.

3b Where the initial instrument referred to in paragraph 2 or the global instrument referred to in paragraph 3 contains several claims, the applicant authority may list those claims in different uniform instruments permitting enforcement in the requested Member State, in line with the tax type related division of competences of the respective recovery offices in the requested Member State.;

(4) in Article 18, paragraph 2 is replaced by the following:

2. The exchange rate to be used for the purposes of the recovery assistance shall be the exchange rate published by the European Central Bank on the date before the date the request is sent. Where there is no such rate available on that date, the exchange rate used shall be the latest exchange rate published by the European Central Bank before the date the request is sent.;

(5) in Article 22, paragraph 5 is replaced by the following:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1966. (See end of Document for details)*

5. Where the adjustment referred to in paragraph 2 entails an increase in the amount of the claim, the applicant authority may address to the requested authority an amended request for recovery or for precautionary measures.

That amended request shall, as far as possible, be dealt with by the requested authority at the same time as the initial request from the applicant authority. Where, in view of the state of progress of the existing procedure, consolidation of the amended request with the initial request is not possible, the requested authority shall comply with the amended request only if it concerns an amount not less than that referred to in Article 18(3) of Directive 2010/24/EU.;

(6) in Article 23(1), the first and second subparagraphs are replaced by the following:

The amounts that have to be remitted to the applicant authority, in accordance with Article 13(5) of Directive 2010/24/EU, shall be transferred to the applicant authority in Euro unless the Member States have agreed to transfer recovered amounts in another currency.

The transfer of the recovered amounts shall take place within two months of the date on which recovery was effected unless otherwise agreed between the Member States.;

(7) Annex I is replaced by the text set out in Annex I to this Regulation.

(8) Annex II is replaced by the text set out in Annex II to this Regulation.

(9) Annex III to this Regulation is added as Annex III.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 October 2017.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1966. (See end of Document for details)*

ANNEX I

ANNEX **I**Uniform notification form providing information about notified document(s)(to be transmitted to the addressee of the notification)

This document, established in accordance with # *Article 10 of Commission Implementing Regulation (EU) No 1189/2011* accompanies document(s) hereby notified by the competent authority of the following State: [name of requested State].

This notification concerns documents of the competent authorities of the following State: [name of applicant State], which asked for notification assistance, in accordance with # *Article 8 of Council Directive 2010/24/EU*.

A.ADDRESSEE OF THE NOTIFICATION

B.PURPOSE OF THE NOTIFICATION

This notification is intended:

Please note that in case of non-payment, the authorities may take enforcement and/or precautionary measures to ensure the recovery of the claim(s). This may cause extra costs charged to the addressee.

You are the addressee of this notification, as you are considered to be:

(The following information will appear if the addressee of the notification is a person other than the (co-)debtor, holding assets belonging to, or having debts towards, the (co-)debtor or to any other person liable, or a third party which may become affected by enforcement measures concerning other persons:

The notified documents concern claims relating to taxes and duties, for which the following person(s) is (are) liable as

The applicant authority of the applicant State (name of the applicant State) invited the competent authorities of the requested State (name of the requested State) to make this notification before [date]. Please note that this date is not specifically related to any period of limitation.

C.OFFICE(S) RESPONSIBLE FOR THE NOTIFIED DOCUMENT(S)

Office responsible with regard to the attached document(s):

Further information about # *the notified document(s) # and/or the possibility to contest the obligations* can be obtained

D.DESCRIPTION OF THE NOTIFIED DOCUMENT(S)

Document [number]

ANNEX II

ANNEX II

Uniform instrument permitting enforcement of claims covered by # *Directive 2010/24/EU*[(5)(6)]

UNIFORM INSTRUMENT PERMITTING ENFORCEMENT OF CLAIMS COVERED BY # DIRECTIVE 2010/24/EU

— *Date of issue:*

— *Reference number:*

REVISED UNIFORM INSTRUMENT PERMITTING ENFORCEMENT OF CLAIMS COVERED BY # DIRECTIVE 2010/24/EU

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1966. (See end of Document for details)*

— *Date of issue of the original uniform instrument:*

— *Date of revision:*

— *Reason for the revision:*

judgment or order of [name of the Court]of [date]

administrative decision of [date]

— *Reference number:*

State where this document is issued: [name of applicant State]

Each EU Member State can request recovery assistance from other Member States for unpaid claims referred to in Article 2 of Directive 2010/24/EU. This Directive has been adopted by the Council of the European Union on 16 March 2010 and is to be applied in all EU Member States.

Recovery measures taken by the requested State are based on:

a uniform instrument permitting enforcement, in accordance with # Article 12 of Directive 2010/24/EU.

a revised uniform instrument permitting enforcement, in accordance with # Article 15 of Directive 2010/24/EU (to take account of the decision of the competent body referred to in Article 14(1) of that Directive).

This document is the uniform instrument permitting enforcement (including precautionary measures). It concerns the claim(s) mentioned below, which remain(s) unpaid in the applicant State (name of applicant State). The initial instrument for the enforcement of this/these claim(s) has been notified in so far as required under the national law of the applicant State (name of applicant State).

Disputes concerning the claim(s) fall exclusively within the competence of the competent bodies of the applicant State (name of applicant State), in accordance with # *Article 14 of Directive 2010/24/EU*. Any such action shall be brought before them in accordance with the procedural and language rules in force in the applicant State (name of applicant State).

DESCRIPTION OF THE CLAIM(S) AND THE PERSON(S) CONCERNED

Identification of the claim(s) [number]

1. Reference:

2. Nature of the claim(s) concerned:

a) *customs duties*

b) *value added tax*

c) *excise duties*

d) *tax on income or capital*

e) *tax on insurance premiums*

f) *inheritance and gift taxes*

g) *national taxes and duties on immovable property, other than the abovementioned ones*