

Tax Pills

Tax treatment of hybrid mismatches under EU ATAD Directive rules. The public consultation on the draft Circular of the Revenue Agency is now open online

19 Ottobre 2021



The Circular scheme provides fiscal clarifications on the discipline of "Hybrid mismatches" contained in the Legislative Decree no. 142/2018, or ATAD Decree, that transposed the EU ATAD Directive rules into domestic tax law. Particularly, interested parties have until 19 November 2021 to send their comments and proposals for amendments or eventual additions. The purpose of the

consultation is to allow the Agency to evaluate the comments and suggestions submitted, in view of their possible transposition in the final version of the Circular.

The topics covered by the draft Circular - As already said, the interpretative document, starting today in consultation, provides an extensive list of clarifications on the discipline of "Hybrid mismatches" currently in force. Particularly, the Circular-letter focuses on the requirements for its application, distinguishing the subjective aspects from the objective ones. Furthermore, the Circular provides several examples, which make it possible to clarify the complex rules of "reaction" which, depending on the case, act on the hybrid cause or on the effects deriving from the mismatching.

About EU ATAD rules - Hybrid mismatches exploit differences between tax systems to achieve double non-taxation, double deduction, deduction without inclusion and non-taxation without inclusion. Therefore, hybrid mismatches often result in base erosion. To tackle this complex mechanism, the EU adopted “The Anti-Tax Avoidance Directive”, ATAD, whose rules are designed to seek to neutralize hybrid mismatches, in an effort to improve the resilience of the EU’s internal market as a whole by setting a minimum level of protection against mismatch fiscal outcomes.

How to send proposals to the Agency - The draft Circular will remain in consultation until 19 November 2021. By this date it is possible to send proposals to amend the original draft-text or for adding further contents and notions. All these comments and observations can be sent to the email address dc.gci.settorecontrollo@agenziaentrate.it. To ensure an effective process of reception and analysis of the various contributions, interested parties are invited to send their proposals and comments following the following scheme: *Topic / Paragraphs of the circular / Observations / Contributions / Purpose*.

Once the public consultation phase is over, the Revenue Agency will publish the comments received, with the exclusion of those containing an express request for non-disclosure.

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URL: <https://www.fiscooggi.it/tax-pills/articolo/tax-treatment-of-hybrid-mismatches-under-eu-atad-directive-rules-the-public>