

ANNEX: LEGAL ASPECTS OF PRACTICE OF TAX RULINGS FOR COMPANIES ACROSS MEMBER STATES

EU Member State	Tax rulings for companies
Austria	binding advance rulings: <ul style="list-style-type: none"> – available relating to reorganization, group taxation and transfer pricing – fee applicable non-binding advance ruling: <ul style="list-style-type: none"> – on prospective transactions – fee applicable
Belgium	Advance ruling: <ul style="list-style-type: none"> – for all forms of taxes – open to all taxpayers – decisions published anonymously – binding upon tax administration, only re specific situation at hand – valid for 5 years; renewal possible
Bulgaria	rulings issued by National Revenue Agency – not binding letter of interpretation or ruling issued by Minister of Finance or Executive Director of National Revenue Agency – binding no interest or penalties if taxpayer acts accordingly
Croatia	no binding advance ruling non-binding guidance from tax authorities possible
Cyprus	unofficial advance ruling: <ul style="list-style-type: none"> – on interpretation of specific laws – no fees – no appeal possible – binding on tax authorities – not binding on taxpayer or the court
Czech Republic	binding advance rulings concerning specified matters (e.g. transfer prices) non-binding opinion on specific issues possible
Denmark	advance ruling on tax assessment (not valuation) binding on tax administration but not on taxpayer fee applicable appeal possible
Estonia	advance ruling: <ul style="list-style-type: none"> – on prospective transactions – binding on the tax authority, but not on taxpayer – appeal not possible – fee of EUR 766.9
Finland	advance rulings of Central Tax Board: <ul style="list-style-type: none"> – issues involving income tax, value added tax, taxation of non-residents, withholding tax on interest or insurance tax – binding on the tax administration, but not on the taxpayer – appeal possible advance rulings of tax offices: <ul style="list-style-type: none"> – only difference from Central Tax Board: tax office permitted to rule on valuation matters

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France	<p>general private ruling:</p> <ul style="list-style-type: none"> – position of tax authorities regarding a specific set of facts – no tacit approval procedure – only protects the requesting party and taxpayers in a comparable situation – formal procedure – may concern any provision of the tax law codified in the CGI – binding for the tax authorities, but not binding for the taxpayer <p>specific private ruling:</p> <ul style="list-style-type: none"> – tacit approval procedure – limited to specific issues (e.g. abuse of law, election for R&D credits, PE threshold) – tacitly binding for the tax authorities in respect of specific requests <p>audit ruling:</p> <ul style="list-style-type: none"> – request, under a tax audit, of inspector's position over specific and precise matters in respect of which adjustment is not proposed
Germany	<p>advance ruling:</p> <ul style="list-style-type: none"> – on prospective transactions – binding on the taxpayer and the competent tax authorities – fee applicable
Greece	<p>written answers from Ministry of Finance:</p> <ul style="list-style-type: none"> – on taxpayer's written question – not binding on tax authorities, although tax authorities generally follow written answers <p>from 1 January 2014, advance pricing agreements can be entered into</p>
Hungary	<p>advance ruling:</p> <ul style="list-style-type: none"> – issued by the Ministry for National Economy – in respect of tax liabilities or the absence of tax liabilities of a taxpayer regarding future transactions – binding for tax authorities (unless facts of case change or the legislation changes) – with respect to corporate income tax, certain taxpayers may request a tax ruling that is valid for 3 years regardless of the changes in legislation – rulings may also be requested in relation to past transactions regarding corporate income tax, individual income tax, small company tax and local business tax until tax return is due – fee applicable – Ministry may be consulted before the procedure – extension of temporal effect of ruling possible – fee for extension applicable
Ireland	<p>advance ruling:</p> <p>in relation to industrial development projects and complex or unusual transactions in accordance with published guidelines</p>
Italy	<p>Advance ruling</p> <ul style="list-style-type: none"> – binding – formal procedure – specific matters: anti-avoidance; fictitious interposition; advertising and entertainment expenses; anti-tax haven legislation; minimum tax on dormant companies
Latvia	<p>no binding advance rulings available</p> <p>general regime for requesting tax authorities' statement in specific situations</p>
Lithuania	<p>taxpayers might request for a private free of charge binding ruling regarding the approval of transfer pricing principles and the assent of the foreseen transaction</p> <p>ruling is binding on tax authorities, not binding on taxpayer</p>
Luxembourg	<p>no formal ruling procedure</p> <p>tax confirmation from tax authorities, applicable to practical cases</p>

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Malta	<p>rulings can be given on:</p> <ul style="list-style-type: none"> – definition of participating holding – tax treatment of any transaction which concerns any financial instrument or other security – tax treatment of any transaction that involves international business <p>binding for 5 years from the time of such ruling and for 2 years from the time of any relevant change in statutory provisions subsequent to such ruling</p> <p>a tax ruling by the DG may at the option of the applicant be renewed for a further period of 5 years</p>
Netherlands	<p>open system:</p> <ul style="list-style-type: none"> – any matter – no formal procedure <p>advance:</p> <ul style="list-style-type: none"> – participation exemption, hybrids, PE, classification of activities – good faith requirement – binding – formal procedure
Poland	<p>general rulings by the Ministry of Finance / individual rulings by delegated tax authorities:</p> <ul style="list-style-type: none"> – written request filed by taxpayer: actual or proposed transactions – fee payable – no tax proceedings or penalties for period during which ruling is effective, if taxpayer strictly follows ruling
Portugal	<p>the system of advance rulings, binding to the tax administration only to the extent of the particular issue, can be used by the taxpayer to determine a specific matter of its tax situation (e.g. tax benefits, legal framework of operations)</p>
Romania	<p>advance ruling:</p> <ul style="list-style-type: none"> – concerns the regulation of future tax state of facts – formal procedure, fee applicable – binding – appeal possible <p>non-binding recommendation</p>
Slovak Republic	<p>no general advance ruling system</p> <p>individual advance rulings, upon request, on:</p> <ul style="list-style-type: none"> – determination of taxable income of Slovak permanent establishment of a non-resident; – transfer pricing methods (from 1 September 2014 advance pricing agreement subject to a fee between EUR 4,000 – 30,000); – amount of advance payments required in certain circumstances; or – on specific tax issues (from 1 September 2014 binding rulings subject to a fee between EUR 4,000 – 30,000)
Slovenia	advance ruling system available
Spain	<p>tax authorities' replies to written queries (national / regional / local levels):</p> <ul style="list-style-type: none"> -- all taxes covered – background information and specific circumstances required – no fees – binding for tax authorities; taxpayer may choose whether or not to follow the opinion¹ – appeal not possible

¹ Clarification by authors: A tax specific ruling is binding for both tax payer and tax authorities. What is not necessarily binding is the general interpretation that is public and open to all companies. These general interpretations are published on the internet pages of the Spanish tax authorities while deleting the names of the taxpayer requesting this clarification.

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Sweden	<p>advance ruling:</p> <ul style="list-style-type: none"> – on tax matters in respect of national income tax, municipal income tax, national real estate tax and certain indirect taxes – binding on tax administration but not on taxpayer – fee applicable (except for indirect taxes), compensation possible – appeal possible <p>advance ruling upon application issued by Council for Advance Tax Rulings</p>
United Kingdom	<ul style="list-style-type: none"> – clearance procedures connected to specific anti-avoidance provisions – advance pricing agreements – advance thin capitalization agreements

Source: International Bureau of Fiscal Documentation (IBFD)

Annotation: The given information is indicative and not to be understood as exhaustive.