

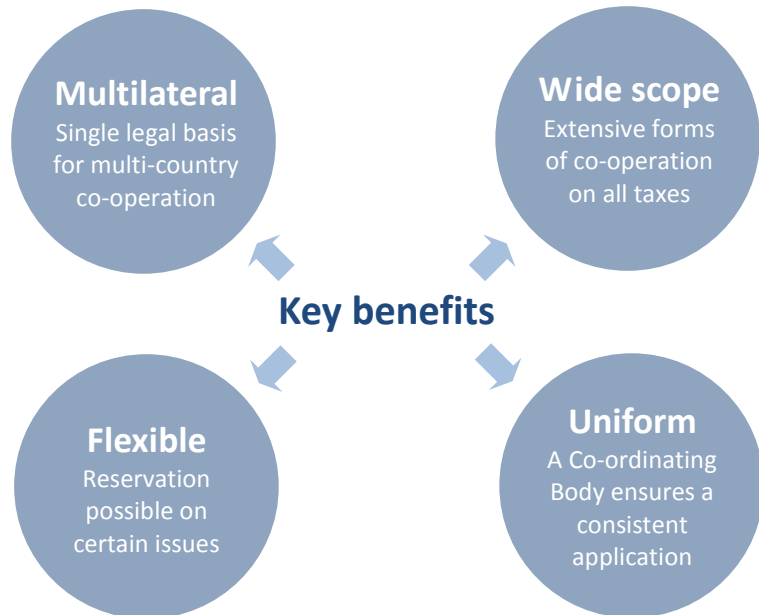
The Multilateral Convention on Mutual Administrative Assistance in Tax Matters

What is it?

The Convention is a freestanding multilateral agreement designed to promote international co-operation for a better operation of national tax laws, while respecting the fundamental rights of taxpayers.

The Convention provides for all possible forms of administrative co-operation between the parties in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion.

The Convention was amended by a Protocol which entered into force on 1 June 2011. This brings the Convention in line with the international standard and opens it for signature by all countries.



Assistance covered

Exchange of information (including on request, spontaneous and automatic), simultaneous tax examinations, tax examinations abroad, assistance in recovery and measures of conservancy, and the service of documents. It can also facilitate joint audits.

Taxes covered

All forms of compulsory payments to the general government except for customs duties. It applies to taxes on income, profits, capital gains, and net wealth levied at the central government level. It also covers local taxes, compulsory social security contributions, estate, inheritance or gift taxes, etc.

Rights and safeguards

Generally, rights and safeguards under national law remain applicable and the Convention expressly recognises a number of limitations to the obligation to provide assistance.

Confidentiality

Very high standards of confidentiality and protection of personal data.

Co-ordinating Body

Made up of representatives of each of the Parties, it monitors the implementation of the Convention. States which have signed but not yet ratified the Convention also participate in the meetings of the Co-ordinating Body as observers.

Flexibility

The Convention lists reservations which States may make regarding the taxes covered (e.g. local taxes) and the type of assistance to be provided (e.g. assistance in collection). Reservations can be made at the time of signature or when depositing the instrument of ratification and they can also be made or withdrawn at a later stage. Certain forms of co-operation such as automatic exchange of information and tax examinations abroad require the previous consent of the relevant Parties.

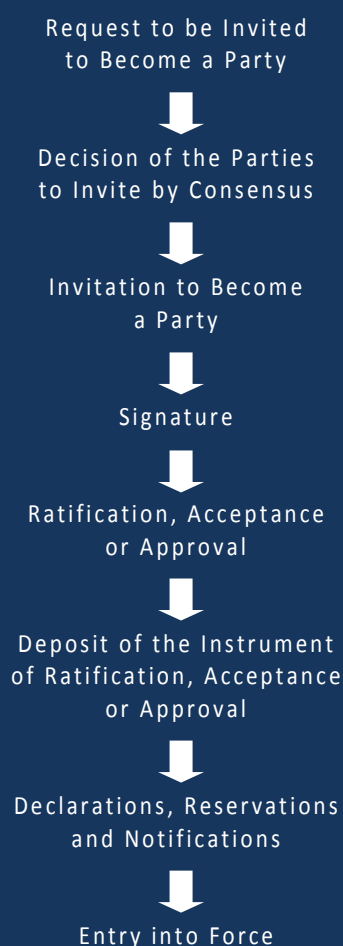
Use of information to combat serious crimes

Information obtained under the Convention may be relevant for other purposes such as pursuing serious financial crimes. The Convention permits such other use when (i) such information may be used for such other purposes under the laws of the supplying Party and (ii) the competent authority of that Party authorises such use.

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How to become a party

Countries which are not Members of the OECD or the Council of Europe can become a party to the amended Convention by following the procedure set out below:



Questions & Answers

Q: Why should a State become a Party to the Convention if it already has a network of bilateral agreements?

A: The Convention covers a much wider range of taxes than bilateral treaties (e.g., it covers VAT/GST and social security contributions). In addition, the Convention provides a single legal basis for multilateral country co-operation in tax matters and sets up a body that can, at the request of a Party, furnish opinions on the interpretation and application of the Convention. Further, it specifies uniform procedures for various forms of mutual assistance such as service of documents, simultaneous tax examinations and tax examinations abroad.

Q: Can a Party exchange information with another Party under the Convention if their bilateral tax Convention does not provide for it?

A: Yes. In practice, when two States are Parties to both the Convention and another instrument, the competent authority of the applicant State will request assistance under the instrument likely to be most effective, provided of course that the terms of the request meet all the necessary requirements set for assistance to be granted under that instrument (Article 27).

Q: Can the information obtained under the Convention be given to another Party to the Convention?

A: Information provided by a Party to another Party may be transmitted to a third Party, subject to prior authorisation by the competent authority of the Party that provided the information (Article 22.4).

Q: Can the information obtained under the Convention be given to other authorities, e.g. law enforcement authorities to counteract corruption, money laundering and terrorism financing?

A: Yes, the Convention expressly allows this, subject to certain conditions: information received by a Party may be used for other purposes when (i) such information may be used for such other purposes under the laws of the supplying Party and (ii) the competent authority of that Party authorises such use (Article 22.4).

Q: Does the convention allow automatic exchange of information?

A: Yes, It can be established through an administrative agreement between the competent authorities of the Parties willing to provide each other information automatically. The agreement would address issues such as the procedure to be adopted and the information that will be exchanged automatically (Article 6).

Q: If a country signs the Convention, does it have to allow the presence of foreign officials in its territory?

A: At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State. However, under the Convention, a Party may inform one of the Depositories of its intention not to accept, as a general rule, these requests. Such a declaration may be made or withdrawn at any time (Article 9.3).

Q: Can the information obtained under the Convention be disclosed if there is a requirement under Freedom of Information legislation?

A: No, the confidentiality rules in the Convention prevent this. Paragraph 220 of the Explanatory Report makes it clear that "... the information received by the competent authority of a Party, whether taxpayer specific or not, should not be disclosed to persons or authorities not mentioned in paragraph 2 of Article 22, regardless of domestic information disclosure laws such as freedom of information or other legislation that allows greater access to governmental documents".

Q: Can a Party make reservations?

A: Yes, the Convention allows for certain reservations (e.g. tax collection), but it is not possible to make reservations concerning only certain Parties to the Convention.

Q: Can a Party withdraw a reservation at a later stage?

A: Yes, a Party can withdraw a reservation made at an earlier date. For instance Poland withdrew its reservation concerning assistance in the recovery of taxes at the time it joined the European Union.

Q: How does the Convention protect taxpayers' rights under the Convention?

A: The Convention provides that information shall be treated as secret and protected in the receiving State in the same manner as information obtained under its domestic laws. If personal data are provided, the Party receiving them shall treat them in compliance not only with its own domestic law, but also with the safeguards that may be required to ensure data protection under the domestic law of the supplying Party (Article 22).