P7_TA(2011)0464

System of taxation applicable in the case of parent companies and subsidiaries of different Member States *

European Parliament legislative resolution of 26 October 2011 on the proposal for a Council directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (recast) (COM(2010)0784 – C7-0030/2011 – 2010/0387(CNS))

(Special legislative procedure – consultation – recast)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2010)0784),

– having regard to Article 115 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0030/2011),

– having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts[1],

– having regard to the letter of 25 March 2011 from the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 87(3) of its Rules of Procedure,

– having regard to Rules 87 and 55 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A7-0314/2011),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,

1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission and as amended below;

2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

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[1] OJ C 77, 28.3.2002, p. 1.

4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Recital 9

Text proposed by the Commission	*Amendment*
(9) In relation to the treatment of permanent establishments Member States may need to determine the conditions and legal instruments in order to protect the national tax revenue and fend off circumvention of national *laws*, in accordance with the Treaty principles and taking into account internationally accepted tax rules.	(9) In relation to the treatment of permanent establishments Member States may need to determine the conditions and legal instruments in order to protect the national tax revenue and fend off circumvention of national *law*, ***and to avoid extreme forms of under-taxation or non-taxation,*** in accordance with the Treaty principles and taking into account internationally accepted tax rules.

Amendment 2

Proposal for a directive
Article 4 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) refrain from taxing such profits; or	(a) refrain from taxing such profits ***if they have been taxed in the State of the subsidiary at a statutory corporate tax rate not lower than 70% of the average statutory corporate tax rate applicable in the Member States***; or

Amendment 3

Proposal for a directive
Article 4 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) tax such profits while authorising the parent company and the permanent establishment to deduct from the amount of tax due that fraction of the corporation tax	(b) tax such profits ***at a statutory corporate tax rate not lower than 70% of the average statutory corporate tax rate applicable in the Member States*** while

related to those profits and paid by the subsidiary and any lower-tier subsidiary, subject to the condition that at each tier a company and its lower-tier subsidiary fall within the definitions laid down in Article 2 and meet the requirements provided for in Article 3, up to the limit of the amount of the corresponding tax due.

authorising the parent company and the permanent establishment to deduct from the amount of tax due that fraction of the corporation tax related to those profits and paid by the subsidiary and any lower-tier subsidiary, subject to the condition that at each tier a company and its lower-tier subsidiary fall within the definitions laid down in Article 2 and meet the requirements provided for in Article 3, up to the limit of the amount of the corresponding tax due.