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COMMISSION COMMUNICATION

TO PARLIAMENT AND THE COUNCIL

Guidelines on company taxation

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(Communication from the Commission to the Council and to the European Parliament)

1. The purpose of this communication is to set out the guidelines which the Commission plans to follow in the field of company taxation and the measures which it thinks should be taken at Community level to create a company tax environment tailored to the establishment and further development of the internal market.

2. The first part of the communication is given over to an examination of the tax problems that will need to be resolved between now and completion of the internal market by the end of 1992. The general analysis is supplemented by an account of the measures that should be taken as a matter of priority between now and 31 December 1992.

The second part examines the procedure to be followed in the face of closer integration of Member States' economies.

INTRODUCTION

A tax strategy geared to the requirements of economic integration

3. According to conventional economic analysis, any form of company taxation is liable to bring about economic distortions (lack of neutrality) because it may give rise to decisions on the location, nature and financing of investment would not have been taken in the absence of company taxation. Such distortions arise because company taxation introduces a bias into the relationship between an investment project's economic rate of return and

the after-tax rate of return to the investor. It should be pointed out that in the Community context the extent of this tax bias on an investment project may vary between Member States depending on differences in the tax base, the rate of tax and, sometimes, the characteristics of the tax system.

4. From a theoretical viewpoint, the possibility could therefore be considered of harmonizing national company tax systems at Community level so as to ensure complete tax neutrality.

5. However, there are a number of basic considerations why the Community should hold back on the harmonization of company tax systems in the Member States, particularly in view of the principle of subsidiarity.

Member States should remain free to determine their tax arrangements, except where these would lead to major distortions.

A further analysis is necessary to check the possible existence and extent of such distortions, and particularly those which might affect decisions as to the location of investment.

Quite apart from the differences in the tax burden on companies, there are many other factors determining the decisions of direct investors. These include, for example, the need to locate a project close to the market served, differences in labour costs, the quality of public services and economic infrastructures.

6. In view of these factors, the Commission has reached the conclusion that Community action should concentrate on the measures essential for completing the internal market. The important question of the advisability and possible forms of the harmonization of company taxation should be reexamined closely and on new bases before any proposals can be presented.

FIRST PART

The tax problems to be resolved and the measures to be implemented before 1993

A. The main tax problems posed by cross-frontier cooperation

7. The Single European Act defines the internal market as "an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured...".

8. At the present time, there are 12 tax territories in the Community, each with its own tax system. Each of these systems is complete as regards the internal situation of the Member State concerned. By its very nature, national legislation provides for the unilateral tax treatment of the activities of companies. That legislation frequently entails tax treatment which places cross-frontier activities at a disadvantage compared with national activities and leads in particular to double taxation, and this in turn places an equivalent extra burden on companies.

9. Now, one of the aims of the internal market is to enable companies to operate throughout the Community without falling foul of legislative frontiers or obstacles. The economic benefits of the internal market will flow from the expansion of companies' transnational activities. National legislation must therefore be adapted to that objective. Given the magnitude of the differences between national systems, Community measures are needed.

10. Although bilateral double taxation agreements have in some cases helped to reduce the extent of these obstacles, they are far from providing a satisfactory answer to the requirements of the internal market. This is because they do not cover all bilateral relations between Member States,[1] they do not achieve complete abolition of double taxation and, in particular, they never provide any uniform solution for triangular and multilateral relations between Member States.

1 See Annex 1.

(a) 11. In the case of the setting-up of transnational companies, the obstacles encountered stem from the system of taxation of capital gains realized on mergers, divisions, contributions of assets or exchanges of shares between enterprises from different Member States.

Although taxation of such operations within a Member State is generally deferred until the capital gains are actually realized, there is no such possibility for transnational operations, where the resultant tax cost may be such that they are no longer worthwhile.

Such obstacles are not restricted only to companies with share capital but may also affect enterprises which do not have legal personality, which is the case, for example, with many small and medium-sized firms.

(b) 12. In the case of the functioning of groups of companies, the tax obstacles are manifold. The most important obstacle lies in the withholding taxes applied by a large majority of Member States to dividends distributed by a subsidiary in a particular Member State to its parent company in another Member State.[1]

13. A second category of obstacle involves double taxation resulting from adjustments in transfer prices made by Member States according to different rules and procedures.

Such economic double taxation arises between associated enterprises where transactions are not carried out at market prices but at internal prices, known as "transfer prices". National tax administrations may decide to adjust these prices if, in their view, they do not correspond to the prices that would be fixed between independent enterprises under conditions of unrestricted competition. Where the upward adjustment of a price which is deemed to be too low by the tax administration in a Member State is not accompanied by a corresponding reduction in the tax base in the other Member State, double taxation occurs.

1 See Annex 2.

At the moment such double taxation can admittedly be resolved by way of the amicable procedure provided for in bilateral conventions, in accordance with Article 25 of the model OECD Convention. However, while the amicable procedure must be initiated in all cases, it does not require the administrations concerned to reach an agreement. In practice, therefore, this instrument has shown itself incapable of resolving all cases of double taxation.

(c) 14. A third factor penalizing transfrontier activities is the absence in many cases of national provisions allowing an enterprise to set against its profits the losses incurred by its permanent establishments or subsidiaries abroad.[1]

The inequality of treatment where transfrontier activities are concerned is particularly striking in the case of permanent establishments. Whereas the results of establishments in the Member State in which the head office is located are an integral part of the results of the enterprise, the mere existence of a frontier between a permanent establishment and the head office means, in some Member States, that losses incurred by the foreign permanent establishment are not deductible from profits made by the head office. As a result, the enterprise pays an amount of tax that is excessive in terms of its total net results, since tax is applied to the results achieved solely in the Member State in which the head office is located.

This problem does not arise in Member States which take into consideration the profits or losses of a foreign permanent establishment and which, in the case of profits, avoid double taxation by crediting the foreign tax against their own tax (imputation or tax-credit method). In addition, some Member States which exempt the profits of the foreign permanent establishment allow deduction of foreign losses. To the extent that the permanent establishment earns profits in a subsequent year, the sums deducted are re-incorporated into the head office's results and taxed.

Such inequality of treatment in respect of transfrontier activities also affects subsidiaries although the legal position is not the same as in the case of permanent establishments. This is because subsidiaries have legal personality and, even where subsidiaries set up on national territory are concerned, not all Member States allow their losses to be set off against the parent company's profits and, where this is allowed, it is subject to restrictive conditions.

1 See Annex 3.

(d) 15. There are also obstacles that impede the flows of royalties and interest within groups of companies. While such payments do not attract withholding tax within a Member State, widely differing rates of withholding tax are levied in the case of most international relations.[1] In theory, such withholding taxes can, it is true, be set off against the tax payable by the recipient enterprises. However, leaving aside the fact that this is not always possible, implementation of the provisions of bilateral agreements laying down reduced rates invariably entails administrative formalities that are often cumbersome and costly.

16. The removal of all of these tax obstacles currently preventing or impeding cross-frontier business activity within the Community is one of the Community's priority tasks. To that end, it is necessary to implement as soon as possible a series of measures whose adoption should be facilitated by the fact that they do not affect the essence of national tax systems and their budgetary consequences are relatively limited.

B. Measures to be implemented as soon as possible

17. The Commission has already presented three proposals for Directives on this subject together with a tax measure linked to the proposal on the Statute for a European company. It will shortly present two further proposals and it intends to take certain measures relating to the tax environment of companies.

(1) Proposals already presented

18. The Commission has put forward a package of three proposals for Directives designed to encourage cooperation between enterprises from different Member States:

(a) The "mergers" Directive

19. This proposal provides for any capital gains arising from a merger, a division or contribution of assets or an exchange of shares to be taxed not at the time of the operation in question but only when capital gains are actually realized. It specifies the conditions which Member States may impose on the deferral of taxation.

The adoption of this proposal is important for the actual formation of European companies by merger, which is the principal method of formation provided for in the draft Statute for a European company presented by the Commission in August 1989.

1 See Annex 4.

(b) The "parent companies and subsidiaries" Directive

20. This proposal is intended to eliminate the double taxation of the dividends distributed by a subsidiary established in one Member State to its parent company established in another Member State. To that end, it provides for:

- the Member State in which the subsidiary is established to abolish any withholding tax;
- the Member State in which the parent company is established to exempt the dividends or else to tax them while at the same time imputing the tax charged in the Member State in which the subsidiary is established against its own tax.

(c) The "arbitration procedure" Directive

21. The third proposal provides for the introduction of procedures designed to ensure, within specified periods, the elimination of double taxation that occurs in connection with the adjustment of the profits of associated enterprises when an upward adjustment in an enterprise's profits in one Member State is not accompanied by a corresponding adjustment in the results of the other enterprise in another Member State. To that end, it provides, firstly, for the general application of the amicable procedure already provided for in bilateral double taxation agreements and, secondly, for the introduction of an arbitration procedure which must be initiated automatically in the event of the failure of the amicable procedure and which must lead to the elimination of double taxation.

22. As most of the problems raised by these three very old proposals in the Council have been resolved, the Commission considers it essential for the Council to adopt them as soon as possible, as it was urged to do by the European Council at its meeting in Strasbourg in December 1989.

(2) Proposals to be presented

(a) Need for account to be taken of foreign profits or losses

23. In its proposal for a Council Regulation on the Statute for a European company, the Commission included provisions (Article 133) stipulating that, where, during a tax period, the aggregation of profits and losses of the permanent establishments which a European company has in a Member State or third country results in a net loss, that loss may be offset against the profits of the European company in the Member State where it is resident for tax purposes.

24. The Commission considers that the provisions permitting foreign losses to be taken into account at company level should apply to all companies engaged in transnational activities. It will therefore shortly present a proposal for a Directive covering all companies irrespective of legal status, including small and medium-sized firms.

That proposal will also deal with the treatment of losses of subsidiaries established abroad.

25. The practical implementation of the solutions set out in the two previous points will be greatly facilitated if all Member States apply the same arrangements for the carry-forward or carry-back of losses for tax purposes. Those arrangements currently differ - in some cases appreciably - as regards the possibility of carry-back, the length of the period of carry-forward and the definition of the losses which may be carried forward or back.[1]

In 1984, the Commission presented a proposal for a Directive on the harmonization of systems for the carry-forward and carry-back of losses for tax purposes, on which the Council has not yet taken a decision. It urges the Council to resume its examination of that proposal, which has been held up for a number of years, with a view to its speedy adoption.

(b) <u>The abolition of withholding taxes on interest and royalty payments within groups of companies</u>

26. The Commission will shortly propose that these taxes be abolished altogether. Arrangements could be made for their gradual abolition to help those Member States which are major net importers of capital and technology and for which the taxes on these payments represent an appreciable source of tax revenue.

(3) <u>Other measures to be taken</u>

(a) <u>Rules and regulations governing transfer pricing</u>

27. The implementation of the provisions relating to the arbitration procedure will guarantee the abolition of economic double taxation occurring between associated enterprises.

While that procedure undoubtedly represents an improvement compared with the present situation, the best solution would be to prevent any double taxation.

1 See Annex 5.

The Commission therefore proposes to carry out a systematic examination of Member States' rules and regulations on transfer pricing (the differences in which are the main cause of double taxation) with a view to making them more uniform. It will also examine with the Member States the conditions under which a cooperation procedure could be established between the administrations concerned where one of them intends to adjust the profits of an associated enterprise. The organization of simultaneous tax checks on companies or establishments of a multinational company situated in different Member States could greatly facilitate such cooperation.

(b) Transparency of incentives

28. In almost all the Member States company taxation is used as a vehicle for incentives through which economic or structural policy objectives are pursued. Of course, where such measures take the form of aid, the Treaty rules on competition apply.

The difficulty stems from the lack of transparency of these specific tax measures. Most of them take the form of special tax rules and regulations concerning the tax base. They are also increasingly making the tax base more complicated, for example in the field of depreciation. In addition, for small and medium-sized firms, this lack of transparency and complication may be prejudicial and may impede the development of cross-frontier activities.

There is absolutely no intention of questioning the aim of these tax incentives, provided that the Treaty obligations are observed.

However, Member States should examine their legislation to ensure that incentives applied are more transparent. For example, incentives in the form of base reductions could be converted into tax credits or rate reductions.

(c) Direct application of the Treaty

29. Furthermore, in the absence of Community legislation in certain fields, it is essential that the Treaty be applied. In particular, the free movement of capital cannot be hindered by tax measures which do not guarantee the principle of equality of treatment.

SECOND PART

Problems of company taxation raised by the development of the internal market

A. The need for new longer-term guidelines

30. The problems of tax harmonization at Community level were examined as long ago as the first half of the 1970s by various ad hoc committees, in particular the Werner Committee, in the context of the approach to economic and monetary union. Subsequently, in 1975, the Commission presented a proposal for a Directive on the harmonization of systems and rates of company taxation in the Member States. Its aim was to limit the economic double taxation of distributed dividends.

That proposal, which has not been discussed by the Council or the European Parliament for more than ten years now, was based on a centralized approach to tax harmonization and economic and monetary union.

Since then, and in particular since the Single European Act and the report on economic and monetary union in the European Community drawn up in April 1989 at the request of the European Council, a new approach to economic integration has been defined.

This approach gives priority to the coordination and approximation of policies rather than to systematic use of harmonization. It is also clearly in keeping with the principle of subsidiarity (see First Part).

In the tax field, priority has been given to removing tax barriers to completion of the internal market and, in particular, to abolishing all forms of double taxation between now and 1993.

Under the circumstances, the 1975 proposal, which, in any case, no longer corresponds to the current situation in the Community or world-wide, has ceased to meet the needs associated with development of the internal market beyond 1992. Moreover, some instances of double taxation between Member States can be resolved in other ways.

It would therefore be logical to withdraw that proposal.

31. However, the matter cannot be left there. With the completion of the internal market between now and the end of 1992, physical and technical barriers will disappear and the differences between tax systems in the Member States may well become increasingly apparent and influence investment decisions. In this situation of more rapid integration, the question arises as to whether further action on direct company taxation is necessary at Community level.

32. It is true that competition between the different economies already constitutes a powerful stimulus to the approximation of national legislation in the company taxation field, and the gradual completion of the internal market will further amplify that phenomenon.

For example, the tax base and the rates of corporation tax have undergone fairly marked changes in recent years in most Member States following the reform which was undertaken by the United Kingdom and the United States and which consisted of cutting nominal tax rates while at the same time broadening the tax base. This reform offers the advantages of transparency and simplification, which should prove particularly beneficial to small and medium-sized firms.

33. However, the question arises as to whether, in view of the relatively major differences between Member States as regards the tax burden on companies,[1] this spontaneous alignment will alone be sufficient to meet the needs of an integrated market and whether it will lead to economically desirable taxation.

Finally, any attempt by Member States to outbid each other too much in cutting company taxation would not be without its problems, whether in terms of loss of resources for national budgets or of equity as regards its impact on the distribution of the tax burden within each Member State between the various taxes and charges.

B. Study of new proposals

34. Under these conditions and in order to be able to examine whether or not new measures are advisable, the Commission sees a need for a fresh study which will have to take account, firstly, of the current state of, and prospects for, Community integration and, secondly, of the results of the major tax reforms of the 1980s, both inside and outside the Community.

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1 See Annex 6.

35. This study will be entrusted to a committee made up of independent persons chosen for their expertise. This committee, for which the Commission will provide the secretariat, will have to submit its report within a maximum period of one year.

The study will have to answer the following main questions:

(a) do the disparities which exist between corporation taxes[1] and the tax burdens on companies from one Member State to the next induce distortions in investment decisions affecting the functioning of the internal market?

(b) if so, can those distortions be eliminated simply through the interplay of market forces and competition between national tax systems or are Community measures required?

(c) Should any action at Community level concentrate on one or more elements of company taxation, namely the different corporation tax systems, the differences in tax treatment associated with the legal status of companies, the tax base or rates?

(d) Should any measures envisaged lead to harmonization, approximation or the straightforward establishment of a framework for national taxation? What would be the effect of such measures or the absence of such measures on Community objectives such as cohesion, environmental protection and fair treatment of small and medium-sized firms?

In the light of this study, the Commission will decide what proposals for measures it should present to the Council.

C. Stepping-up of consultations

36. In order to promote cooperation with representatives from the Member States, the Commission considers that consultations should be stepped up in this field between those responsible for taxation policy in the various Member States. Meetings should be held at regular intervals, at least once or twice a year, to exchange information and viewpoints with the Commission on the main proposals. Such consultation should make it easier for Member States to take account, in pursuing their national tax policies, of both the impact of the internal market and the consequences of those policies for the other Member States in the context of the growing integration and solidarity between the Community economies. These meetings should deal not only with the problems which arise within the Community but also with those encountered in relations with non-member countries.

1 See Annex 7.

IV. Conclusions

The Commission invites the Council and Parliament to:

- take note of the withdrawal of the 1975 proposal concerning the harmonization of systems of company taxation and of withholding taxes on dividends and of the guidelines resulting from this communication for direct company taxation in the light of completion of the internal market by the end of 1992 and beyond;

- endorse the Commission's decisions to:

  . arrange for a study to be made of the company taxation problems posed by greater economic integration;

  . step up consultations in the company taxation field with Member States.

The Commission asks the Council:

- to adopt without delay the following proposals which have already been transmitted to it and which are of special importance for the establishment of the internal market:

  . the proposal for a Directive on a common system of taxation applicable to mergers, divisions and contributions of assets involving companies from different Member States;

  . the proposal for a Directive on a common system of taxation applicable to parent companies and subsidiaries from different Member States;

  . the proposal for a Directive introducing an arbitration procedure for eliminating double taxation in the event of the adjustment of profits between associated enterprises.

- to examine in the light of this communication the proposals concerning :

  . arrangements for the taking into account by the parent company of foreign results;

  . the abolition of witholding taxes on royalties and interest payments

  as soon as the Commission has presented them.

* * *

ANNEX 1
(Situation as at 1.1.90)

RELATIONS BETWEEN MEMBER STATES NOT COVERED

BY A BILATERAL AGREEMENT.

Denmark	- Greece
Greece	- Spain
Greece	- Ireland
Greece	- Luxembourg
Greece	- Portugal
Spain	- Ireland
Portugal	- Luxembourg
Portugal	- Netherlands
Portugal	- Ireland.

Withholding tax rates applicable to dividend payments between companies

Country in which the distributing company is established / Country in which the recipient company is established	Belgium (1)	Belgium (2)	Denmark (1)	Denmark (2)	Germany (1)	Germany (2)	Greece (1)	Greece (2)	Spain (1)	Spain (2)	France (1)	France (2)	Ireland (1)	Ireland (2)
Countries without agreement		25		30		25		(3)		25		25		0
Member States														
Belgium	-	-		15	25(25)	15		25		15	10(10)	15		0
Denmark		15	-	-	25(25)	15		(3)	10(50)	15		0		0
Germany		15	10(25)	15	-	-		25	10(25)	15	0(25)	15		0
Greece		15		30		25	-	-		25		25		0
Spain		15	10(50)	15	25(25)	15		(3)	-	-	10(25)	15		0
France	10(10)	15		0	25(25)	15		(3)	10(25)	15	-	-		0
Ireland		15		0	20(25)	15		(3)		25	10(50)	15	-	-
Italy		15		15		25		25		15		15		0
Luxembourg	10(25)	15	5(25)	15	25(25)	15		(3)	10(25)	15	5(25)	15		0
Netherlands	5(25)	15	0(25)	15	25(25)	15 (10)		35	10(50)(4)	15	5(25)	15		0
Portugal		15	10(25)	15		15		(3)	10(50)	15		15		0
United Kingdom		15	0(25)	15	20(25)	15		(3)	10(10)	15	5(10)	15		0
Non-member countries														
Switzerland	10(25)	15		0		15		35	10(25)	15	5(20)(5)	15(5)		0
United States		15	5(95)	15	25(25)	15		(3)		25	5(10)	15		0
Japan		15	10(25)	15		15		(3)	10(25)	15	10(15)	15		0

Source: International Bureau of Fiscal Documentation

ANNEX 2

Italy (1)	Italy (2)	Luxembourg (1)	Luxembourg (2)	Netherlands (1)	Netherlands (2)	Portugal (1)	Portugal (2)	United Kingdom (1)	United Kingdom (2)
	32,4		15		25		25		0[7]
	15	10(25)	15	5(25)	15		15		[9] 20[8]
	15	5(25)	15	0(25)	15	10(25)	15	5(10)	15[8]
	32,4	10(25)	15	10(25)	15		15	0 [7]	0[7]
	25		15	5(25)	15		25	0 [7]	0[7]
	15	5(25)	15	5(50)	15	10(50)	15	0(10)[7]	15[8]
	15	5(25)	15	5(25)	15		15	0(10)[7]	15[8]
	15	5(25)	15	0(25)	15		25	0(10)[7]	15[8]
–	–		15		0		15	0[7]	0[7]
	15	–	–	2,5(25)	15		25	5(10)[9]	15[8]
0(75)	32,4	2,5(25)	15	–	–		25	5(10)[9]	15[8]
	15		15		15	–	–	0[7]	0[7]
5(51)	15	5(25)	15	5(25)	15	10(25)	15	–	–
	15		15	0(25)	15	10(25)	15	5(10)[9]	15[8]
5(50)[6]	15	5(10)	7,5	5(25)	15		25	5(10)[9]	15[8]
10(25)	15		15	5(25)	15		25	0(10)[7]	15[8]

Notes:

(1) Rate applicable in the case of a substantial holding; the minimum percentage required for a holding to be considered substantial is indicated in brackets.

(2) Rate applicable in the case of a minority holding.

(3) Four rates are applied depending on the circumstances:

	shares quoted on the Athens stock exchange	shares not quoted on the Athens stock exchange
bearer shares	45	50
registered shares	42	47

(4) Rate reduced to 5% if the recipient company is not liable to Dutch tax on the same dividends.

(5) Cases where Swiss companies are controlled by Swiss residents.

(6) Rate for a holding of at least 10%: 10%.

(7) No tax credit granted.

(8) Tax credit granted = 25/75 of the dividend.

(9) Tax credit granted = 25/150 of the dividend.

(10) Rates provided for by the bilateral agreement ; in practice the rate of 15 % is also applicable in the case of a substantial holding.

Annex 3

TAX ARRANGEMENTS APPLICABLE TO LOSSES IN THE MEMBER STATES

Summary table showing the extent to which losses may be offset within each Member State and in relations with other countries.

N.B. (i) Permanent establishments resident in the same State as the company are not included in the table. The profits or losses of such establishments are always included in the company's results, in all Member States.

(ii) A "consortium" means a holding company owned by a group of companies (in Ireland, a maximum of five), each with at least 5%, and jointly 75%, of the share capital.

Member State	Subsidiary in the Member State	Permanent foreign establishment	Subsidiary abroad
Belgium	-	Offsetting with reincorporation in a given order (Arti 66 et seq AR-CIR)	-
Denmark	Consolidation (consolidated profits) (wholly owned subsidiary)	Where no agreement: imputation - Deduction with reincorporation where an agreement provides for exemption	Consolidation (consolidated profits) (wholly owned subidiary)
Germany	Offsetting where "Organschaft" (subsidiary under financial, structural and economic control)	- Where no agreement: imputation - In accordance with agreements: exemption in principle but deduction of losses with reincorporation	-
Spain	Consolidation (consolidated profits) (subsidiary, minimum holding of 90%)	Imputation method	-
France	Consolidation if application of: (i) consolidated profits system (ii) integrated profitsysystem (subsidiary, minimum holding of 95%)	Imputation under world profits system if opted for by company	Consolidation if application of: (i) "consolidated balance sheet system" (very limited use in practice) (ii) provisions for losses in the first 5 years if trading within the EEC, with automatic reincorporation (Art. 39(8)(D) CGI)
Greece	-	Imputation method in principle, except where the overall result of all permanent establishments is negative (no deduction of losses in such cases)	-

Ireland	Consolidation where: (i) subsidiary, minimum holding of 75%, or (ii) consortium	Imputation method	-
Italy	-	Imputation method	-
Luxembourg	Offsetting where "Organschaft" system applies (subsidiary, 99%)	- If no agreement: imputation - Agreements provide for exemption without deduction of losses	-
Netherlands	Offsetting where single entity status (subsidiary, 99%)	Combination of both methods - exemption with progression in case of profits - Deduction and reincorporation in case of losses	-
Portugal	Consolidation (consolidated profits) (subsidiary, minimum holding of 90%)	- If no agreement, no unilateral provisions - Agreements provide for imputation	-
United Kingdom	Consolidation where: (i) subsidiary with minimum holding of 75%, or (ii) consortium, or (iii) combination of (i) and (ii)	Imputation method	-

ANNEXE 4.1

TAUX DES RETENUES A LA SOURCE APPLICABLES AU PAIEMENT D'INTERETS ENTRE ENTREPRISES   Situation au 1.1.1990

Etat de résidence du débiteur / Etat de résidence du bénéficiaire	Belgique (1)	Danemark	Allemagne	Grèce	Espagne	France	Irlande	Italie	Luxemb.	Pays-Bas	Portugal	R.U.
.Pays sans convention	25	0	0	46(3)	25	45(5)	32	15	0	0	20	25
.**Etats membres**												
Belgique	-	0	0	15	15	15	15	15	0	0	15	15(10)
Danemark	15	-	0	46	10	0	0	15	0	0	15	0
Allemagne	15(2)	0	-	10	10(4)	0	0	15	0	0	15(9)	0
Grèce	15	0	0	-	25	0	32	10	0	0	20	0
Espagne	15	0	0	46	-	10	32	12	0	0	15	12
France	15	0	0	10	10	-	0	15	0	0	12	0
Irlande	15	0	0	46	25	0	-	10	0	0	20	0
Italie	15	0	0	10	12	15	10	-	0	0	15	25
Luxembourg	15(2)	0	0	46	10	10	0	10	-	0	20	0
Pays-Bas	10	0	0	10	10	10(6)	0	15	0	-	20	0
Portugal	10	0	0	46	15	12	32	15	0	0	-	10
Royaume-Uni	15	0	0	0	12	10	0	15	0	0	10	-
.**Pays tiers**												
Suisse	10	0	0	10	10	10(7)	0	12,5	0	0	10	0
Etats-Unis	15	0	0	46	25	0	0(8)	15	0	0	20	0
Japon	15	0	0	46	10	10	10	10	0	0	20	10

Source: International Bureau of Fiscal Documentation.

Remarques

(1) pas de retenue sur :
- les intérêts sur dettes commerciales;
- les intérêts payés par des banques établies en Belgique à des banques étrangères ;

(2) uniquement d'application pour une participation d'au moins 25%; pas de retenue dans les autres cas;

(3) pour les sociétés non-résidentes, le taux est égal au taux de l'impôt des sociétés;

(4) exonération pour les intérêts payés à la Deutsche Bundesbank ou à la Kreditanstalt für Wiederaufbau;

(5) taux du droit interne avec un grand nombre d'exceptions;

(6) à part certains paiements exonérés;

(7) taux applicable dans le cas de sociétés suisses contrôlées par des résidents suisses;

(8) retenue de 35% si le bénéficiaire est une société qui détient 50% des participations dans la société irlandaise;

(9) retenue de 10% pour les intérêts relatifs aux emprunts garantis par des banques allemandes, à condition que les emprunts soient officiellement reconnus comme étant dans l'intérêt économique ou social du Portugal;

(10) pas de retenue en cas de paiement d'intérêts par des banques.

TAUX DES RETENUES A LA SOURCE APPLICABLES AU PAIEMENT DE REDEVANCES ENTRE ENTREPRISES (1) [illegible]

Etat de résidence du débiteur / Etat de résidence du bénéficiaire	Belgique	Danemark	Allemagne	Grèce	Espagne	France	Irlande	Italie	Luxemb.	Pays-Bas	Portugal	R.U.
.Pays sans convention	25	30	25	25	25	33 1/3	32	30(3)	12	0	15	25
.Etats membres												
Belgique	–	0	0	5	5	0	0	5	0	0	5	0
Danemark	0	–	0	25	6	0	0	5	0	0	10	0
Allemagne	0	0	–	0	5	0	0	0	5	0	10	0
Grèce	5	30	0	–	25	5	32	0	12	0	15	0
Espagne	5	6	5	25	–	6	32	8	10	0	5	10
France	0	0	0	5	6	–	0	0	0	0	5	0
Irlande	0	0	0	25	25	0	–	0	0	0	15	0
Italie	0	5	0	0	8	0	0	–	10	0	12	0
Luxembourg	0	0	5	25	10	0	0	10	–	0	15	5
Pays-Bas	0	0	0	7	6	0	0	0	0	–	15	0
Portugal	5	10	10	25	5	5	32	12	12	0	–	5
Royaume-Uni	0	0	0	0	10	0	0	0	0	0	5	–
.Pays tiers												
Suisse	0	0	0	5	5	5(2)	0	5	12	0	5	0
Etats-Unis	0	0	0	0	25	5	0	10	0	0	15	0
Japon	10	10	10	25	10	10	10	10	12	0	15	10

Source: International Bureau of Fiscal Documentation.

Remarques

(1) Il n'a pas été tenu compte de la T.V.A. que certains pays appliquent sur les redevances.
(2) taux applicable pour des sociétés suisses contrôlées par des résidents suisses;
(3) taux appliqué à 70% du montant brut, c'est-à-dire un taux effectif de 21%.

Situation at
1 January 1990

Table: Tax arrangements applicable to the carry-over of losses

	Carry-back, maximum number of years authorized	Carry-forward, maximum number of years authorized
Community		
Belgium	–	5[1]
Denmark	–	5
Germany	2[2]	no limit
Greece	–	3[3]
Spain	–	5
France	3[4]	5
Ireland	1	no limit
Italy	–	5
Luxembourg	–	5
Netherlands	3	8
Portugal	–	5
United Kingdom	1	no limit
Other countries		
Japan[5]	1	5
USA	3	15
Switzerland	–	–[6]

Source: International Bureau of Fiscal Documentation for the Member States, Coopers and Lybrand for the other countries.

[1] Exceptions: - for companies established after 1 January 1972, no limit on carry-forward of losses in first 5 years;
- for compulsory depreciation: no limit on carry-forward.

[2] Amount limited to DM 10 000 000.

[3] Five years for hotels, mines and factories.

[4] Under certain conditions.

[5] Under certain conditions.

[6] As a rule, a tax period covers two years. A loss in one year is automatically carried over to the second year of the same period. In the case of Federal taxes the loss incurred in one period may be carried forward for three periods.

Table: Revenue from corporation tax, 1987

	Revenue from corporation tax	
	As a percentage of GDP	As a percentage of total tax revenue
Community		
Belgium	3,0	6,6
Denmark	2,3	4,5
Germany	1,9	5,0
Greece	1,7	4,4
Spain	2,2	6,7
France	2,3	5,2
Ireland	1,3	2,1
Italy	3,8	10,5
Luxembourg	7,5	17,1
Netherlands	3,7	7,7
Portugal	n.a.	n.a.
United Kingdom	4,0	10,6
Other countries		
Japan	6,9	22,9
USA	2,4	8,1
Switzerland	2,2	6,2

Source: OECD

ANNEXE 7

Situation au 1.1.1990

SYSTEMES D'IMPOT SUR LES SOCIETES

Systèmes d'impôt des sociétés (sans atténuation, avec atténuation ou avec suppression de la double imposition économique des dividendes)	Taux de l'impôt sur les sociétés sur		Taux du crédit d'impôt pour le bénéficiaire résident		Taux de la retenue à la source pour le bénéficiaire résident
	bénéfice distribué	bénéfice non distribué	en % de l'impôt des sociétés	en % du dividende brut	
Etats membres					
1. **Système sans atténuation**					
Belgique (1)	43(2)	43(2)	-	-	25(4)
Luxembourg	34(3)	34(3)	-	-	15(5)
Pays-Bas	35	35	-	-	25
2. **Système avec atténuation**					
Danemark	40	40	25	16,7	30(6)
Espagne	35	35	18,57	10	25
France	42	37	69,04	50	0(6)
Irlande	43	43		28/72	0
Portugal	36,5	36,5	20	11,5	25
Royaume-Uni	35	35		25/75	0
3. **Système avec suppression**					
Allemagne	36	50	100(7)		25
Grèce	0	46	-	-	(8)
Italie	46,368(9)	46,368(9)	100(10)		10
Pays tiers					
1. **Système sans atténuation**					
Etats-Unis	34(11)	34(11)	-	-	0(6)
Suisse	taux progressifs	(12)	-	-	35
2. **Système avec atténuation**					
Japon	35(13)	40(13)	-	de 7,4 à 12,8	20

Notes

1. From 1 January 1989 Belgium abolished its relief system for natural persons who do not appropriate their investment income to their business activity.

2. Standard rate for profits in excess of BFR 16 000 000. This rate will be reduced to 41% from 1 January 1991, and to 39% from 1 January 1992.

3. Standard rate for profits in excess of LFR 1 312 001; an additional charge of 2% is due for the employment fund, based on the amount of corporation tax.

4. In full discharge of tax liability.

5. Does not apply to dividends distributed by Luxembourg holding companies.

6. With coupon statement.

7. 100% of the tax on distributed profits.

8. Four rates are applied:

	Shares quoted on the Athens stock exchange	Shares not quoted on the Athens stock exchange
bearer shares	45%	50%
registered shares	42%	47%

9. National rate of tax (36%) plus local tax, or ILOR, at 16.2%

10. The tax credit relates only to the national tax of 36%.

11. Standard rate at Federal level for profits not exceeding \$100 000. State and municipal taxes must be added to Federal tax. In the case of New York, for instance, the overall rate is 45.25%.

12. At Federal level, the tax is calculated on the basis of the ratio (%) of taxable profits to equity. Rates are progressive and range from 3.63% to 9.8%. To this charge must be added cantonal, church and municipal taxes, which range from 7.8% to 22.6% and are deductible from the base for Federal tax purposes.
In the case of Zürich, for instance, the combination of the various rates produces an overall tax rate of between 11.1% and 30.2%.

13. National tax rate.

FICHE FINANCIERE

Objet : Projet de communication de la Commission au Conseil, au Parlement européen et au Comité Economique et Social sur les **"orientations en matière de fiscalité des entreprises"**
- fiche financière

1. Introduction

La fiche financière est nécessaire comme complément à l'annonce dans le projet de communication des implications budgétaires de

- la création d'un "Comité" [groupe d'experts] constitué de personnalités indépendantes dont la compétence en matière fiscale est reconnue et qui sera amené à remettre une étude dans un délai d'un an en répondant aux principales questions citées au paragraphe 34 de la Communication ;

- il est envisagé de conclure avec ces personnalités des contrats de prestation de services, éventuellement individuels, de manière à rémunérer sur base des contrats-types existants les travaux des membres de ce "Comité" ; les crédits opérationnels de la DG XV (B7752) et/ou la dotation de la DG XV sur le poste A2600 devront être utilisés à cette fin ;

- ce "Comité", en réalité un "groupe d'experts" de la Commission, sera appelé à se réunir à plusieurs reprises tout au long de ses travaux ; les crédits disponibles sur le poste A2500 en dotation de la DG XV devront être utilisés pour couvrir les frais de voyage, d'approche et de séjour de ces experts privés.

2. Crédits nécessaires

(a) crédits d'engagements pour la conclusion de contrats de prestation de service pour la remise d'une étude :

il est prévu de conclure 5 contrats d'une durée de douze mois à raison de 20.000 ECU par contrat

total : 100.000 ECU à imputer sur les crédits d'engagement pour l'année 1990 du poste B7752; si nécessaire un renforcement de ces postes sera demanéd en temps utile.

(b) frais de convocation pour la réunion de ce "Comité"

il est prévu de convoquer ce groupe d'experts privés à 6 reprises tout au long de la durée de ces travaux dont 4 convocations durant l'année 1990

total : 12.000 ECU à imputer sur les crédits du poste A2500 (dotation 1990) pourle remboursement des frais de voyage, d'approche et de séjour de ces experts

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