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REPORT

on the proposal for a Council directive on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (codified version)
(COM(2008)0492 – C6-0336/2008 – 2008/0158(CNS))

Committee on Legal Affairs

Rapporteur: Diana Wallis

(Codification – Rule 80 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members, except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure: (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure: (third reading)
majority of the votes cast to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council directive on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (codified version)
(COM(2008)0492 – C6-0336/2008 – 2008/0158(CNS))**

(Consultation procedure – codification)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0492),
 - having regard to Article 94 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0336/2008),
 - having regard to the Interinstitutional Agreement of 20 December 1994 – Accelerated working method for official codification of legislative texts¹,
 - having regard to Rules 80 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0511/2008),
- 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 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;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 102, 4.4.1996, p. 2.

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION



CONSULTATIVE WORKING PARTY
OF THE LEGAL SERVICES

Brussels, 31 October 2008

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a Council directive on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States
COM(2008)0492 of 29.7.2008 – 2008/0158(CNS)**

Having regard to the Interinstitutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts, and in particular to point 4 thereof, the consultative working party consisting of the legal services of the European Parliament, the Council, and the Commission met on 8 September 2008 in order to consider, among others, the above-mentioned Commission proposal.

On examining¹ the proposal for a Council directive intended to codify Council Directive 90/434/EC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States, the working party, by common accord, noted that:

1) In recital 11, the first sentence (which, as reproduced in the text of the proposal, reads as follows: *‘The decision of an SE or SCE to reorganise its business by transferring its registered office should not be unduly hampered by tax obstacles’*) should be replaced by the following: *‘The decision of an SE or SCE to reorganise its business by transferring its registered office should not be hampered by discriminatory tax rules or by restrictions, disadvantages, or distortions arising from national tax legislation which is contrary to Community law’*.

¹ The working party was able to refer to 22 language versions of the proposal and based its proceedings on the French original version of the working document.

2) In Annex I, point m, the inserted Greek word ‘επιρδείξ’ should have been placed between arrows to denote an adaptation.

Having considered the working document, the working party was thus able to establish, without dissent, that the proposal is indeed confined to straightforward codification and makes no substantive changes to the acts concerned.

C. PENNERA
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J.-C. PIRIS
Legal Adviser

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Acting Director-General

PROCEDURE

Title	System of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (Codified version)
References	COM(2008)0492 – C6-0336/2008 – 2008/0158(CNS)
Date of consulting Parliament	29.9.2008
Committee responsible Date announced in plenary	JURI 9.10.2008
Rapporteur Date appointed	Diana Wallis 25.6.2008
Date adopted	15.12.2008