

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 196 final

Brussels, 10 June 1993

Amended proposal for a

COUNCIL DIRECTIVE

on a common system of taxation applicable to
interest and royalty payments made between
parent companies and subsidiaries in different Member States

(presented by the Commission pursuant to Article 149(3)
of the EEC-Treaty)

EXPLANATORY MEMORANDUM

Introduction

On 28 November 1990 the Commission presented to the Council a proposal for a Directive on a common system of taxation applicable to interest and royalty payments made between parent companies and subsidiaries in different Member States¹.

Parliament and the Economic and Social Committee, which were consulted on the proposal, adopted favourable opinions on 14 February 1992² and 20 March 1991³ respectively.

Of the amendments requested by Parliament, the Commission has adopted one expanding the definitions of interest and royalty payments in order to ensure that the Directive applies more widely to everything regarded by Member States as interest and royalty payments (Amendment No 4).

Amendment No 11, which aims at inserting into Article 8 of the proposal a provision requiring Member States to include a reference to the Directive, notably in national provisions for the prevention of abuse, at the time of transposition into national law, has not been taken up by the Commission since the text of the proposal already applies to all national provisions and hence to those relating to the prevention of abuse.

1 OJ C 53, 28.2.1991.
2 OJ C 67, 16.3.1992.
3 OJ C 120, 6.5.1991.

COMMENTARY ON THE PROPOSED AMENDMENT

Article 2

The proposed amendment is designed to ensure that the Directive applies fully to all payments regarded by Member States as interest and royalty payments, either under a bilateral convention or, in the absence of such a convention, on the basis of the national tax laws of a Member State.

**Amendment to the proposal for a Council Directive
on a common system of taxation applicable to interest and
royalty payments made between parent companies and
subsidiaries in different Member States**

(presented by the Commission to the Council
pursuant to Article 149(3) of the EEC Treaty)

1. Article 2 becomes paragraph 1 of Article 2.
2. The following paragraph 2 is added to Article 2:
 - "2. In addition to the provisions in paragraph 1, all other payments regarded as interest or royalty payments, either under a double taxation convention in force between the Member State of the debtor and the Member State of the recipient or, in the absence of such a convention, by the tax laws of the Member State of the debtor, shall be treated as such for the purposes of this Directive."

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DOCUMENTS**EN****09**

Catalogue number : CB-CO-93-222-EN-C

ISBN 92-77-55655-2

Office for Official Publications of the European Communities
L-2985 Luxembourg