Company taxation: parent companies and subsidiaries of different Member States, common system. Recast

2010/0387(CNS) - 26/10/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 585 votes to 72, with 11 abstentions, a legislative resolution 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).

Parliament's position at first under the ordinary legislative procedure 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.

Parliament underlines that 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**.

Therefore, Members suggested amendments that stipulate that were a parent company or its permanent establishment, by virtue of the association of the parent company with its subsidiary, receives distributed profits, the State of the parent company and the State of its permanent establishment shall, except when the subsidiary is liquidated, either:

- refrain from taxing such profits if they have been taxed in the country 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**;
- 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 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 the Directive and meet the requirements provided for in the Directive, up to the limit of the amount of the corresponding tax due.