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EUROPEAN COMMISSION

Brussels, 4.1.2011
COM(2010) 784 final

2010/0387 (CNS)

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)

EXPLANATORY MEMORANDUM

1. On 1 April 1987 the Commission decided¹ to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.
2. The codification of Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States² has been initiated by the Commission, and a relevant proposal has been submitted to the legislative authority³. The new Directive was to have superseded the various acts incorporated in it⁴.
3. In the course of the legislative procedure, views were expressed by the European Parliament and by the Council that the wording of the second subparagraph of Article 4(3) of Directive 90/435/EEC, as it appeared in Article 4(5) of the proposed codified text, might be understood as establishing a secondary legal basis. In the light of the judgment of the Court of Justice of 6 May 2008 in Case C-133/06 and for the avoidance of any doubt and for the sake of legal certainty, those two institutions requested that the provision in the proposed codified text be redrafted. Since such a redrafting would imply certain substantive changes, and would therefore go beyond straightforward codification, it was considered necessary that point 8⁵ of the Interinstitutional Agreement of 20 December 1994 – Accelerated working method for official codification of legislative texts – be applied, in the light of the Joint declaration on that point⁶.
4. The amendment to be made to Article 4(5) of the proposed codified text concerns the insertion of words clarifying that the rules referred to in that provision are adopted by the Council acting in accordance with the procedure provided for in the Treaty.
5. It is therefore appropriate to transform the codification of Directive 90/435/EEC into a recast in order to incorporate the necessary amendment.

¹ COM(87) 868 PV.

² Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the *Acquis communautaire*, COM(2001) 645 final.
³ COM(2008) 691 final.

⁴ Annex II, Part A of this proposal.

⁵ *"Should it prove necessary during the legislative process to go beyond straightforward codification and make substantive changes, it will be the Commission's responsibility to submit any proposal(s), where appropriate".*

⁶ *"The European Parliament, the Council and the Commission note that if it should appear necessary to go beyond straightforward codification and make substantive changes, the Commission will be able to choose, case by case, whether to recast its proposal or whether to submit a separate proposal for amendment, leaving its codification proposal on the table, and then, once the substantive change has been adopted, incorporate it into the proposal for codification".*

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)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 115 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament⁷,

Having regard to the opinion of the European Economic and Social Committee⁸,

Acting in accordance with a special legislative procedure,

Whereas:

↓ new

(1) Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States⁹ has been substantially amended several times¹⁰. Since further amendments are to be made, it should be recast in the interests of clarity.

⁷ OJ C [...], [...], p. [...].

⁸ OJ C [...], [...], p. [...].

⁹ OJ L 225, 20.8.1990, p. 6.

¹⁰ See Annex II, Part A.

↓ 2003/123/EC Recital 2
(adapted)

- (2) The objective of ☒ this ☒ Directive is to exempt dividends and other profit distributions paid by subsidiary companies to their parent companies from withholding taxes and to eliminate double taxation of such income at the level of the parent company.

↓ 90/435/EEC Recital 1 (adapted)

- (3) The grouping together of companies of different Member States may be necessary in order to create within the ☒ Union ☒ conditions analogous to those of an internal market and in order thus to ensure the effective functioning of ☒ such an internal ☒ market. Such operations ought not to be hampered by restrictions, disadvantages or distortions arising in particular from the tax provisions of the Member States. It is therefore necessary, with respect to such grouping together of companies of different Member States, ☒ to provide for ☒ tax rules which are neutral from the point of view of competition, in order to allow enterprises to adapt to the requirements of the ☒ internal ☒ market, to increase their productivity and to improve their competitive strength at the international level.

↓ 90/435/EEC Recital 2

- (4) Such grouping together may result in the formation of groups of parent companies and subsidiaries.

↓ 90/435/EEC Recital 3 (adapted)

- (5) ☒ Before the entry into force of Directive 90/435/EEC, ☒ the tax provisions which ☒ governed ☒ the relations between parent companies and subsidiaries of different Member States ☒ varied ☒ appreciably from one Member State to another and ☒ were ☒ generally less advantageous than those applicable to parent companies and subsidiaries of the same Member State. Cooperation between companies of different Member States ☒ was ☒ thereby disadvantaged in comparison with cooperation between companies of the same Member State. It ☒ was ☒ necessary to eliminate ☒ that ☒ disadvantage by the introduction of a common system in order to facilitate the grouping together ☒ at Union level ☒ of companies.

↓ 90/435/EEC Recital 4

- (6) Where a parent company by virtue of its association with its subsidiary receives distributed profits, the State of the parent company must either refrain from taxing such profits, or tax such profits while authorising the parent company to deduct from the amount of tax due that fraction of the corporation tax paid by the subsidiary which relates to those profits.

↓ 90/435/EEC Recital 5

- (7) It is furthermore necessary, in order to ensure fiscal neutrality, that the profits which a subsidiary distributes to its parent company be exempt from withholding tax.

↓ 2003/123/EC Recital 8

- (8) The payment of profit distributions to, and their receipt by, a permanent establishment of a parent company should give rise to the same treatment as that applying between a subsidiary and its parent. This should include the situation where a parent company and its subsidiary are in the same Member State and the permanent establishment is in another Member State. On the other hand, it appears that situations where the permanent establishment and the subsidiary are situated in the same Member State, can, without prejudice to the application of the Treaty principles, be dealt with on the basis of national legislation by the Member State concerned.

↓ 2003/123/EC Recital 9

- (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.

↓ 2003/123/EC Recital 10

- (10) When corporate groups are organised in chains of companies and profits are distributed through the chain of subsidiaries to the parent company, double taxation should be eliminated either by exemption or tax credit. In the case of tax credit the parent company should be able to deduct any tax paid by any of the subsidiaries in the chain provided that the requirements set out in this Directive are met.

↓ new

- (11) In the light of the judgment of the Court of Justice of 6 May 2008 in Case C-133/06¹¹, it is considered necessary to redraft the wording of the second subparagraph of Article 4(3) of Directive 90/435/EEC, for the purpose of clarifying that the rules referred to therein are adopted by the Council acting in accordance with the procedure provided for in the Treaty.

¹¹ [2008] ECR I-03189.



- (12) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex II, Part B,

↓ 90/435/EEC

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Each Member State shall apply this Directive:

- (a) to distributions of profits received by companies of that State which come from their subsidiaries of other Member States;
- (b) to distributions of profits by companies of that State to companies of other Member States of which they are subsidiaries;

↓ 2003/123/EC Art. 1 pt. 1

- (c) to distributions of profits received by permanent establishments situated in that State of companies of other Member States which come from their subsidiaries of a Member State other than that where the permanent establishment is situated;
- (d) to distributions of profits by companies of that State to permanent establishments situated in another Member State of companies of the same Member State of which they are subsidiaries.

↓ 90/435/EEC

2. This Directive shall not preclude the application of domestic or agreement-based provisions required for the prevention of fraud or abuse.

Article 2

↓ 90/435/EEC (adapted)

For the purposes of this Directive ☒ the following definitions shall apply: ☒

↓ 90/435/EEC

(a) “company of a Member State” means any company which:

(i) takes one of the forms listed in Annex I, Part A;

↓ 90/435/EEC (adapted)

(ii) according to the tax laws of a Member State is considered to be resident in that State for tax purposes and, under the terms of a double taxation agreement concluded with a third State, is not considered to be resident for tax purposes outside the ☒ Union ☒ ;

(iii) moreover, is subject to one of the taxes ☒ listed in Annex I, Part B ☒, without the possibility of an option or of being exempt, or to any other tax which may be substituted for any of those taxes;

↓ 2003/123/EC Art. 1 pt. 2,
second part

(b) “permanent establishment” means a fixed place of business situated in a Member State through which the business of a company of another Member State is wholly or partly carried on in so far as the profits of that place of business are subject to tax in the Member State in which it is situated by virtue of the relevant bilateral tax treaty or, in the absence of such a treaty, by virtue of national law.

↓ 2003/123/EC Art. 1 pt. 3

Article 3

1. For the purposes of applying this Directive:

(a) the status of parent company shall be attributed:

↓ 2003/123/EC Art. 1 pt. 3
(adapted)

(i) at least to any company of a Member State which fulfils the conditions set out in Article 2 and has a minimum holding of ☒ 10 ☒ % in the capital of a company of another Member State fulfilling the same conditions;

- (ii) under the same conditions, to a company of a Member State which has a minimum holding of $\geq 10\%$ in the capital of a company of the same Member State, held in whole or in part by a permanent establishment of the former company situated in another Member State.

↓ 2003/123/EC Art. 1 pt. 3

- (b) “subsidiary” means that company the capital of which includes the holding referred to in point (a).

↓ 90/435/EEC

2. By way of derogation from paragraph 1, Member States shall have the option of:

- (a) replacing, by means of bilateral agreement, the criterion of a holding in the capital by that of a holding of voting rights;
- (b) not applying this Directive to companies of that Member State, which do not maintain for an uninterrupted period of at least two years holdings qualifying them as parent companies, or to those of their companies in which a company of another Member State does not maintain such a holding for an uninterrupted period of at least two years.

Article 4

↓ 2003/123/EC Art. 1 pt. 4(a)
(adapted)

1. Where 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:

- (a) refrain from taxing such profits; or
- (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 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 $\geq$ fall within the definitions laid down in Article 2 and $\geq$ meet the requirements provided for in Article 3, up to the limit of the amount of the corresponding tax due.

↓ 2003/123/EC Art. 1 pt. 4(b) (adapted)
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2. Nothing in this Directive shall prevent the State of the parent company from considering a subsidiary to be fiscally transparent on the basis of that State's assessment of the legal characteristics of that subsidiary arising from the law under which it is constituted and therefore from taxing the parent company on its share of the profits of its subsidiary as and when those profits arise. In this case the State of the parent company shall refrain from taxing the distributed profits of the subsidiary.

When assessing the parent company's share of the profits of its subsidiary as they arise the State of the parent company shall either exempt those profits or authorise the parent company to deduct from the amount of tax due that fraction of the corporation tax related to the parent company's share of profits and paid by its 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.

↓ 90/435/EEC → ₁ 2003/123/EC Art. 1 pt. 4(c)
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3. Each Member State shall retain the option of providing that any charges relating to the holding and any losses resulting from the distribution of the profits of the subsidiary may not be deducted from the taxable profits of the parent company.

Where the management costs relating to the holding in such a case are fixed as a flat rate, the fixed amount may not exceed 5 % of the profits distributed by the subsidiary.

4. →₁ Paragraphs 1 and 2 shall apply until the date of effective entry into force of a common system of company taxation. ←

↓ 90/435/EEC (adapted) ⇒ new

5. The Council ⇒ , acting unanimously **in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee**, ⇐ shall at the appropriate time adopt the rules to apply after the ☒ entry into force of a common system of company taxation ☒.

Article 5

↓ 2003/123/EC Art. 1 pt. 5(a)

Profits which a subsidiary distributes to its parent company shall be exempt from withholding tax.

Article 6

The Member State of a parent company may not charge withholding tax on the profits which such a company receives from a subsidiary.

Article 7

1. The term “withholding tax” as used in this Directive shall not cover an advance payment or prepayment (précompte) of corporation tax to the Member State of the subsidiary which is made in connection with a distribution of profits to its parent company.
2. This Directive shall not affect the application of domestic or agreement-based provisions designed to eliminate or lessen economic double taxation of dividends, in particular provisions relating to the payment of tax credits to the recipients of dividends.

Article 8

Member States shall ☒ communicate to the Commission ☒ the texts of the main provisions of ☒ national ☒ law which they adopt in the field covered by this Directive.

Article 9

Directive 90/435/EEC, as amended by the acts listed in Annex II, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex II, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

Article 10

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 11

This Directive is addressed to the Member States.

Done at, [...]

*For the Council
The President*

ANNEX I

⊠ Part A ⊠

LIST OF COMPANIES REFERRED TO IN ARTICLE 2(a)(i)

- (a) companies incorporated under Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE)¹² and Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees¹³ and cooperative societies incorporated under Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)¹⁴ and Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees¹⁵,
- (b) companies under Belgian law known as “société anonyme”/“naamloze vennootschap”, “société en commandite par actions”/“commanditaire vennootschap op aandelen”, “société privée à responsabilité limitée”/“besloten vennootschap met beperkte aansprakelijkheid”, “société coopérative à responsabilité limitée”/“coöperatieve vennootschap met beperkte aansprakelijkheid”, “société coopérative à responsabilité illimitée”/“coöperatieve vennootschap met onbeperkte aansprakelijkheid”, “société en nom collectif”/“vennootschap onder firma”, “société en commandite simple”/“gewone commanditaire vennootschap”, public undertakings which have adopted one of the abovementioned legal forms, and other companies constituted under Belgian law subject to Belgian corporate tax,
- (c) companies under Bulgarian law known as: “събирателно дружество”, “командитно дружество”, “дружество с ограничена отговорност”, “акционерно дружество”, “командитно дружество с акции”, “неперсонифицирано дружество”, “кооперации”, “кооперативни съюзи”, “държавни предприятия” constituted under Bulgarian law and carrying on commercial activities,
- (d) companies under Czech law known as: “akciová společnost”, “společnost s ručením omezeným”,

¹² OJ L 294, 10.11.2001, p. 1.

¹³ OJ L 294, 10.11.2001, p. 22.

¹⁴ OJ L 207, 18.8.2003, p. 1.

¹⁵ OJ L 207, 18.8.2003, p. 25.

- (e) companies under Danish law known as “aktieselskab” and “anpartsselskab”. Other companies subject to tax under the Corporation Tax Act, insofar as their taxable income is calculated and taxed in accordance with the general tax legislation rules applicable to “aktieselskaber”,
- (f) companies under German law known as “Aktiengesellschaft”, “Kommanditgesellschaft auf Aktien”, “Gesellschaft mit beschränkter Haftung”, “Versicherungsverein auf Gegenseitigkeit”, “Erwerbs- und Wirtschaftsgenossenschaft”, “Betriebe gewerblicher Art von juristischen Personen des öffentlichen Rechts”, and other companies constituted under German law subject to German corporate tax,
- (g) companies under Estonian law known as: “täisühing”, “usaldusühing”, “osaühing”, “aktsiaselts”, “tulundusühistu”,
- (h) companies incorporated or existing under Irish law, bodies registered under the Industrial and Provident Societies Act, building societies incorporated under the Building Societies Acts and trustee savings banks within the meaning of the Trustee Savings Banks Act, 1989,
- (i) companies under Greek law known as “ανώνυμη εταιρεία”, “εταιρεία περιορισμένης ευθύνης (Ε.Π.Ε.)” and other companies constituted under Greek law subject to Greek corporate tax,
- (j) companies under Spanish law known as: “sociedad anónima”, “sociedad comanditaria por acciones”, “sociedad de responsabilidad limitada”, public law bodies which operate under private law. Other entities constituted under Spanish law subject to Spanish corporate tax (“Impuesto sobre Sociedades”),
- (k) companies under French law known as “société anonyme”, “société en commandite par actions”, “société à responsabilité limitée”, “sociétés par actions simplifiées”, “sociétés d'assurances mutuelles”, “caisses d'épargne et de prévoyance”, “sociétés civiles” which are automatically subject to corporation tax, “coopératives”, “unions de coopératives”, industrial and commercial public establishments and undertakings, and other companies constituted under French law subject to French corporate tax,
- (l) companies under Italian law known as “società per azioni”, “società in accomandita per azioni”, “società a responsabilità limitata”, “società cooperativa”, “società di mutua assicurazione”, and private and public entities whose activity is wholly or principally commercial,
- (m) under Cypriot law: “εταιρείες” as defined in the Income Tax laws,
- (n) companies under Latvian law known as: “akciju sabiedrība”, “sabiedrība ar ierobežotu atbildību”,
- (o) companies incorporated under the law of Lithuania,
- (p) companies under Luxembourg law known as “société anonyme”, “société en commandite par actions”, “société à responsabilité limitée”, “société coopérative”, “société coopérative organisée comme une société anonyme”, “association d'assurances mutuelles”, “association d'épargne-pension”, “entreprise de nature

commerciale, industrielle ou minière de l'Etat, des communes, des syndicats de communes, des établissements publics et des autres personnes morales de droit public”, and other companies constituted under Luxembourg law subject to Luxembourg corporate tax,

- (q) companies under Hungarian law known as: “közkereseti társaság”, “betéti társaság”, “közös vállalat”, “korlátolt felelősségű társaság”, “résztvénytársaság”, “egyesülés”, “szövetkezet”,
- (r) companies under Maltese law known as: “Kumpaniji ta' Responsabilita' Limitata”, “Soċjetajiet en commandite li l-kapital tagħhom maqsum f'azzjonijiet”,
- (s) companies under Dutch law known as “naamloze vennootschap”, “besloten vennootschap met beperkte aansprakelijkheid”, “open commanditaire vennootschap”, “coöperatie”, “onderlinge waarborgmaatschappij”, “fonds voor gemene rekening”, “vereniging op coöperatieve grondslag”, “vereniging welke op onderlinge grondslag als verzekeraar of kredietinstelling optreedt”, and other companies constituted under Dutch law subject to Dutch corporate tax,
- (t) companies under Austrian law known as “Aktiengesellschaft”, “Gesellschaft mit beschränkter Haftung”, “Versicherungsvereine auf Gegenseitigkeit”, “Erwerbs- und Wirtschaftsgenossenschaften”, “Betriebe gewerblicher Art von Körperschaften des öffentlichen Rechts”, “Sparkassen”, and other companies constituted under Austrian law subject to Austrian corporate tax,
- (u) companies under Polish law known as: “spółka akcyjna”, “spółka z ograniczoną odpowiedzialnością”,
- (v) commercial companies or civil law companies having a commercial form and cooperatives and public undertakings incorporated in accordance with Portuguese law,
- (w) companies under Romanian law known as: “societăți pe acțiuni”, “societăți în comandită pe acțiuni”, “societăți cu răspundere limitată”,
- (x) companies under Slovenian law known as: “delniška družba”, “komanditna družba”, “družba z omejeno odgovornostjo”,
- (y) companies under Slovak law known as: “akciová spoločnosť”, “spoločnosť s ručením obmedzeným”, “komanditná spoločnosť”,
- (z) companies under Finnish law known as “osakeyhtiö”/“aktiebolag”, “osuuskunta”/ “andelslag”, “säästöpankki”/“sparbank” and “vakuutusyhtiö”/“försäkringsbolag”,
- (aa) companies under Swedish law known as “aktiebolag”, “försäkringsaktiebolag”, “ekonomiska föreningar”, “sparbanker”, “ömsesidiga försäkringsbolag”,
- (ab) companies incorporated under the law of the United Kingdom.

↓ 2006/98/EC Art. 1 and Annex pt. (7)(b) (adapted)

⊠ Part B ⊠

⊠ LIST OF TAXES REFERRED TO IN ARTICLE 2(a)(iii) ⊠

↓ 90/435/EEC Art. 2(c) first indent
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- impôt des sociétés/vennootschapsbelasting in Belgium,
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↓ 2006/98/EC Art. 1 and Annex pt 7(a)
--

- корпоративен данък in Bulgaria,
-

↓ 2003 Act of Accession Art. 20 and Annex II, pt. 8, p. 560
--

- daň z příjmů právnických osob in the Czech Republic,
-

↓ 90/435/EEC Art. 2(c) second indent

- selskabsskat in Denmark,
-

↓ 90/435/EEC Art. 2(c) third indent
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- Körperschaftssteuer in Germany,
-

↓ 2003 Act of Accession Art. 20 and Annex II, pt. 8, p. 560
--

- tulumaks in Estonia,
-

↓ 90/435/EEC Art. 2(c) seventh indent
--

- corporation tax in Ireland,

	↓ 90/435/EEC Art. 2(c) fourth indent
–	φόρος εισοδήματος νομικών προσώπων κερδοσκοπικού χαρακτήρα in Greece,
	↓ 90/435/EEC Art. 2(c) fifth indent
–	impuesto sobre sociedades in Spain,
	↓ 90/435/EEC Art. 2(c) sixth indent
–	impôt sur les sociétés in France,
	↓ 90/435/EEC Art. 2(c) eighth indent
–	imposta sul reddito delle persone giuridiche in Italy,
	↓ 2003 Act of Accession Art. 20 and Annex II, pt. 8, p. 560
–	φόρος εισοδήματος in Cyprus,
–	uzņēmumu ienākuma nodoklis in Latvia,
–	pelno mokestis in Lithuania,
	↓ 90/435/EEC Art. 2(c) ninth indent
–	impôt sur le revenu des collectivités in Luxembourg,
	↓ 2003 Act of Accession Art. 20 and Annex II, pt. 8, p. 560
–	társasági adó, osztalékadó in Hungary,
–	taxxa fuq l-income in Malta,
	↓ 90/435/EEC Art. 2(c) tenth indent
–	vennootschapsbelasting in the Netherlands,

–	Körperschaftssteuer in Austria,	↓ 1994 Act of Accession Art. 29 and Annex I, p. 196
–	podatek dochodowy od osób prawnych in Poland,	↓ 2003 Act of Accession Art. 20 and Annex II, pt. 8, p. 560
–	imposto sobre o rendimento das pessoas colectivas in Portugal,	↓ 90/435/EEC Art. 2(c) eleventh indent
–	impozit pe profit in Romania	↓ 2006/98/EC Art. 1 and Annex pt. 7(a)
–	davek od dobička pravnih oseb in Slovenia,	↓ 2003 Act of Accession Art. 20 and Annex II, pt. 8, p. 560
–	daň z príjmov právnických osôb in Slovakia,	
–	yhteisöjen tulovero/inkomstskatten för samfund in Finland,	↓ 1994 Act of Accession Art. 29 and Annex I, p. 196
–	statlig inkomstskatt in Sweden,	
–	corporation tax in the United Kingdom.	↓ 90/435/EEC Art. 2(c) twelfth indent



ANNEX II

Part A

Repealed Directive with list of its successive amendments (referred to in Article 9)

Council Directive 90/435/EEC
(OJ L 225, 20.8.1990, p. 6)

Point XI.B.I.3 of Annex I to the 1994 Act of Accession
(OJ C 241, 29.8.1994, p. 196)

Council Directive 2003/123/EC
(OJ L 7, 13.1.2004, p. 41)

Point 9.8 of Annex II to the 2003 Act of Accession
(OJ L 236, 23.9.2003, p. 555)

Council Directive 2006/98/EC
(OJ L 363, 20.12.2006, p. 129)

Annex, point 7 only

Part B

List of time-limits for transposition into national law (referred to in Article 9)

Directive	Time-limit for transposition
90/435/EEC	31 December 1991
2003/123/EC	1 January 2005
2006/98/EC	1 January 2007

ANNEX III

CORRELATION TABLE

Directive 90/435/EEC	This Directive
Article 1(1) first to fourth indents	Article 1(1)(a) to (d)
Article 1(2)	Article 1(2)
Article 2(1) first part of the introductory phrase	Article 2 introductory phrase
Article 2(1) second part of the introductory phrase	Article 2(a), introductory phrase
Article 2(1) (a)	Article 2(a) (i)
Article 2(1) (b)	Article 2(a) (ii)
Article 2(1) (c) introductory phrase of the first subparagraph and second subparagraph	Article 2(a) (iii)
Article 2(1)(c), first subparagraph, first to twenty-seventh indents	Annex I, Part B, first to twenty-seventh indents
Article 2(2)	Article 2(b)
Article 3(1) introductory phrase	Article 3(1), introductory phrase
Article 3(1)(a) first subparagraph, initial words	Article 3(1)(a), introductory phrase
Article 3(1)(a) first subparagraph, final words	Article 3(1)(a)(i)
Article 3(1)(a) second subparagraph	Article 3(1)(a)(ii)
Article 3(1)(a) third subparagraph	—
Article 3(1)(a) fourth subparagraph	—
Article 3(1)(b)	Article 3(1)(b)
Article 3(2) first and second indents	Article 3 (2)(a) and (b)
Article 4(1) first and second indents	Article 4(1)(a) and (b)
Article 4(1a)	Article 4(2)
Article 4(2) first sentence	Article 4(3) first subparagraph
Article 4(2) second sentence	Article 4(3) second subparagraph

Article 4(3) first subparagraph
Article 4(3) second subparagraph

Articles 5, 6 and 7

Article 8(1)

Article 8(2)

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Article 9

Annex

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Article 4(4)

Article 4(5)

Articles 5, 6 and 7

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Article 8

Article 9

Article 10

Article 11

Annex I, Part A

Annex II

Annex III

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