Procedure file

Basic information

CNS - Consultation procedure Directive	2006/0253(CNS)
Procedure completed	

Tax treatment: elimination of capital duty and other indirect taxes on the raising of capital (repeal. Directive 69/335/EEC). Recast

Subject
2.70.02 Indirect taxation, VAT, excise duties

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		24/01/2007
		PPE-DE LANGEN Werner	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs		29/01/2007
		PPE-DE GAUZÈS Jean-Paul	
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	2847	12/02/2008
	Economic and Financial Affairs ECOFIN	2836	04/12/2007
European Commission	Commission DG	Commissioner	
	Taxation and Customs Union	KOVÁCS László	

Key events

04/12/2006	Legislative proposal published	COM(2006)0760	Summary
18/01/2007	Committee referral announced in Parliament		
21/11/2007	Vote in committee		Summary
27/11/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0472/2007	
04/12/2007	Debate in Council	2836	
12/12/2007	Results of vote in Parliament		
12/12/2007	Decision by Parliament	T6-0611/2007	Summary
12/02/2008	Act adopted by Council after consultation of Parliament		
12/02/2008	End of procedure in Parliament		

21/02/2008	Final act published in Official Journal		

Technical information

Procedure reference	2006/0253(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Recast
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 094; EC Treaty (after Amsterdam) EC 093; Rules of Procedure EP 110-p4
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/43579

Documentation gateway

Legislative proposal		COM(2006)0760	04/12/2006	EC	Summary
Economic and Social Committee: opinion, report		CES0408/2007	14/03/2007	ESC	
Committee draft report		PE388.476	24/04/2007	EP	
Amendments tabled in committee		PE388.718	15/05/2007	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0472/2007	27/11/2007	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0611/2007	12/12/2007	EP	Summary
Commission response to text adopted in plenary		SP(2008)0411	23/01/2008	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

Directive 2008/7
OJ L 046 21.02.2008, p. 0011 Summary

Tax treatment: elimination of capital duty and other indirect taxes on the raising of capital (repeal. Directive 69/335/EEC). Recast

PURPOSE: to recast Council Directive 69/335/EEC concerning indirect taxes on the raising of capital.

PROPOSED ACT: Council Directive.

CONTENT: the purpose of the proposal is to simplify a very complicated piece of Community legislation, phase out capital duty which is recognised as a significant obstacle to the development of EU companies, and reinforce the prohibition on creating or levying of other similar taxes.

Since 1985, the trend has been towards an elimination of capital duty. In response to its detrimental economic effects, capital duty has been abolished by many Member States. The United Kingdom abolished its capital duty in 1988, Germany and France abolished theirs in 1992, Denmark abolished its in 1993 and Italy in 2000. Most recently, capital duty was abolished by Ireland from 7 December 2005, and by Belgium and the Netherlands from 1 January 2006. As a result, only 7 (Greece, Spain, Cyprus , Luxembourg, Austria, Poland, Portugal) of the 25 Member States continue to levy it. In Poland and Portugal, capital duty is levied already at a rate of 0,5% or less; and in Cyprus, the rate is 0,6%. In the remaining 4 Member States, the rate is 1,0%.

This recast proposes a limit of 0,5% on the rate by 2008, and a phasing out of capital duty by 2010 to fit with the Lisbon strategy.

The Directive regulates the levying of indirect taxes on the raising of capital. The recast Directive is divided into two parts, which reflects the situation to which the Directive actually applies and keeps in mind that the aim of the Directive, since the 1985 amendment, has been to abolish capital duty. The first part contains the main rules which prohibit the levying of capital duty and other similar taxes. The second part contains the special provisions on the levying of capital duty applying to those Member States which during the phasing out period opt to continue to charge capital duty. Once all Member States have abolished capital duty the provisions in the second part will become obsolete while the first part of the Directive will continue to apply.

Tax treatment: elimination of capital duty and other indirect taxes on the raising of capital (repeal. Directive 69/335/EEC). Recast

The Committee on Economic and Monetary Affairs adopted the report by Werner LANGEN (EPP-ED, DE) amending, under the consultation procedure, the proposal for a Council directive concerning indirect taxes on the raising of capital (Recast version).

The report unreservedly welcomes the recasting of the directive concerning indirect taxes on the raising of capital as a simplification of the existing complex Community legislation.

Nevertheless, the committee introduced a number of amendments concerning in particular the extension of the delays provided in the proposal:

- according to the MEPs, it is appropriate that the maximum rate of capital duty applicable by the Member States which continue to charge capital duty should be reduced by 2010 (instead of 2008) and that capital duty should be abolished by 2012 at the latest (instead of 2010);

- the report notes that notwithstanding Article 5(1)(a), a Member State which as at 1 January 2006 charged a duty on contributions of capital to capital companies, hereinafter "capital duty", may continue to do so until 31 December 2011 (instead of 31 December 2009);

- the rate of capital duty may not in any event exceed 1%, and after 31 December 2009 (instead of 2007) it may not exceed 0.5%;

- Member States shall transpose this Directive by 31 December 2009 (instead of 31 December 2006) at the latest;

- Directive 69/355/EEC, as amended by the Directives listed in Part A of Annex II, is repealed with effect from 1 January 2010 (as opposed to 1 January 2007), 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 Part B of Annex II;

- lastly, Annex I the lists the names of companies in each of the Member States, it needs to be extended to include the names of companies in Romania and Bulgaria.

Tax treatment: elimination of capital duty and other indirect taxes on the raising of capital (repeal. Directive 69/335/EEC). Recast

The European Parliament adopted a legislative resolution based on the report drafted by Werner LANGEN (EPP-ED, DE), and agreed with the position taken by its competent committee. It made some amendments to the proposal for a Council directive concerning indirect taxes on the raising of capital (Recast version). These amendments mainly concerned the time periods in the proposal:

- according to the MEPs, it is appropriate that the maximum rate of capital duty applicable by those Member States who continue to charge capital duty should be reduced by 2010 (instead of 2008) and that capital duty should be abolished by 2012 at the latest (instead of 2010);

- the text now states that notwithstanding Article 5(1)(a), a Member State which, as at 1 January 2006, charged a duty on contributions of capital to capital companies, may continue to do so until 31 December 2011 (instead of 31 December 2009);

- the rate of capital duty may not in any event exceed 1%, and after 31 December 2009 (instead of 31 December 2007) it may not exceed 0.5%;

- Member States shall transpose the Directive by 31 December 2009 (instead of 31 December 2006) at the latest;

- Directive 69/355/EEC, as amended by the Directives listed in Part A of Annex II, is repealed with effect from 1 January 2010 (as opposed to 1 January 2007), 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 Part B of Annex II;

- lastly, Annex I is extended to include the names of companies in Romania and Bulgaria.

Tax treatment: elimination of capital duty and other indirect taxes on the raising of capital (repeal. Directive 69/335/EEC). Recast

PURPOSE: to establish new rules on capital duty.

LEGISLATIVE ACT: Council Directive 2008/7/EC concerning indirect taxes on the raising of capital.

CONTENT : This Directive regulates the levying of indirect taxes in respect of the following:

1. contributions of capital to capital companies;
2. restructuring operations involving capital companies;
3. the issue of certain securities and debentures.

The objective of this Directive is to contribute to legal certainty by enhancing clarity, and simplification of legislation in this field. The Directive also reflects certain developments arising out of well-established case law of the EU Court of Justice.

It provides the opportunity for Member States which currently apply capital duty to continue to subject to capital duty all or part of the transactions concerned. It provides, however, that once a Member State has chosen not to levy capital duty, it is no longer possible for that Member State to reintroduce such duty. Since 1985, capital duty has been abolished by many Member States, while seven Member States continue to levy it.

The Directive states that it is in the interests of the internal market to harmonise the legislation on indirect taxes on the raising of capital in order to eliminate, as far as possible, factors which may distort conditions of competition or hinder the free movement of capital. The economic effects of capital duty are detrimental to the regrouping and development of undertakings. Such effects are particularly harmful in the present economic situation in which there is a paramount need for priority to be given to stimulating investment. The best solution for attaining these objectives would be to abolish capital duty. However, the losses of revenue which would result from the immediate application of such a measure are unacceptable for Member States which currently apply capital duty. Those Member States therefore have the opportunity to continue to subject to capital duty all or part of the transactions concerned, it being understood that a single rate of tax must be charged within one and the same Member State. Once a Member State has chosen not to levy capital duty on all or part of the transactions under this Directive, it will not be possible for it to reintroduce such duties.

Rate of capital duty: capital duty shall be charged at a single rate. The rate applied by a Member State may not exceed the rate applied by that Member State on 1 January 2006. Where, after that date, the Member State reduces the rate applied, it may not reintroduce a higher rate. The rate of capital duty may not in any event exceed 1%.

Review: the Commission must report to the Council every three years on the operation of the Directive notably with the view to abolish capital duty. Member States must provide the Commission with information in respect of the revenue from capital duty.

ENTRY INTO FORCE: 12/03/2008.

TRANSPOSITION: 31/12/2008.