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REPORT

on the proposal for a Council directive concerning indirect taxes on the raising of capital (Recast version)
(COM(2006)0760 – C6-0043/2007 – 2006/0253(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Werner Langen

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.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive concerning indirect taxes on the raising of capital
(Recast version)

(COM(2006)0760 – C6-0043/2007 – 2006/0253(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2006)0760),
 - having regard to Articles 93 and 94 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0043/2007),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0472/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament
<hr/>	
Amendment 1	
Recital 7	
(7) 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 2008 and that capital duty should be abolished by 2010 at the latest.	(7) 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 and that capital duty should be abolished by 2012 at the latest.

Amendment 2
Article 7, paragraph 1

1. 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 2009** provided that it complies with Articles 8 to 14.

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Amendment 3
Article 8, paragraph 3

3. The rate of capital duty may not in any event exceed 1%, and after **31 December 2007** it may not exceed 0,5%.

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Amendment 4
Article 15, paragraph 1, subparagraph 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 3, 4, 5, 7, 8, 10, 12, 13 and 14 by **31 December 2006** at the latest. They shall forthwith communicate to the Commission the texts of those provisions and a correlation table between those provisions and this Directive.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 3, 4, 5, 7, 8, 10, 12, 13 and 14 by **31 December 2009** at the latest. They shall forthwith communicate to the Commission the texts of those provisions and a correlation table between those provisions and this Directive.

Justification

The proposed deadline has already passed.

Amendment 5
Article 16, paragraph 1

Directive 69/355/EEC, as amended by the Directives listed in Part A of Annex II, is repealed with effect from **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.

Directive 69/355/EEC, as amended by the Directives listed in Part A of Annex II, is repealed with effect from **1 January 2010**, 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

Justification

The proposed deadline was impossible to comply with from the outset, since the recast version cannot be adopted in the Council until Parliament has been consulted.

Amendment 6
Article 17, paragraph 2

Articles 1, 2, 6, 9 and 11 shall apply from
1 January 2007.

Articles 1, 2, 6, 9 and 11 shall apply from ***1 January 2010.***

Justification

The proposed deadline was impossible to comply with from the outset, since the recast version cannot be adopted in the Council until Parliament has been consulted.

Amendment 7
Annex I, point 25 a (new)

***25a. companies under Bulgarian law
known as:***

- i) Акционерно дружество***
- ii) "Командитно дружество с акции"***
- iii) "Дружество с ограничена
отговорност"***

Justification

At the time of the submission of the proposal in December 2006 Romania and Bulgaria were not yet Member States of the EU, but the Commission should have known that all the decisions regarding their accession had already been taken. Since the Commission clearly did not take this into account, this addition needs to be made for the sake of completeness.

Amendment 8
Annex I, point 25 b (new)

***25b. companies under Romanian law
known as:***

- i) societăți în nume colectiv***
- ii) societăți în comandită simplă***
- iii) societăți pe acțiuni***
- iv) societăți în comandită pe acțiuni***
- v) societăți cu răspundere limitată***

Justification

At the time of the submission of the proposal in December 2006 Romania and Bulgaria were not yet Member States of the EU, but the Commission should have known that all the decisions regarding their accession had already been taken. Since the Commission clearly did not take this into account, this addition needs to be made for the sake of completeness.

EXPLANATORY STATEMENT

I. BACKGROUND

On 4 December 2006 the Commission submitted a proposal for a Council directive on a recast version of Directive 69/335/EEC concerning indirect taxes on the raising of capital. This proposal seeks firstly to simplify the Community legislation in question and secondly to gradually abolish capital duty, so as to help eliminate obstacles within the European Internal Market and encourage economic growth in the EU. At the same time it seeks to reinforce the ban on the introduction and/or levying of other similar taxes.

The primary objective, the abolition of capital duty, is made quite clear. The first part, which will still apply when all the Member States have abolished capital duty, contains the most important rules prohibiting the levying of capital duty and other similar taxes. The second part governs the procedure to be followed in those Member States which still have capital duty and will continue to levy such a tax until its gradual abolition in 2010. For a Council directive, as is customary in taxation matters, the European Parliament needs to be consulted.

2. PRESENTATION OF THE RECAST VERSION

The explanatory memorandum to the Commission proposal contains general comments on the recasting of the directive. The proposal is structured in the same way as the earlier directive submitted to Parliament.

Annex I lists the names of companies in each of the Member States and needs to be extended to include the names of companies in Romania and Bulgaria. Annex II comprises Part A, listing the repealed directive and its successive amendments, and Part B, listing the time limits for transposition into national law.

3. RAPPORTEUR'S COMMENTS

The European Parliament unreservedly welcomes the recasting of the directive concerning indirect taxes on the raising of capital as a simplification of the existing complex Community legislation with its numerous adaptations over the past 38 years, together with the gradual abolition of capital duty by 2010 (maximum rate of 0.5% by 2008) and the ban on introducing and levying other comparable taxes.

For as long as 25 years the Member States have been under an obligation to transpose the directive into national law pursuant to Article 16(1). 20 Member States have now done so and have abolished capital duty.

In seven Member States capital duty is still levied, leading to the unequal treatment of businesses in the European Union and impairing the operation of the common Internal Market.

Furthermore, as far back as 1985 an adequate transitional arrangement was introduced, enabling the Member States to compensate for loss of tax revenue by setting a uniform

maximum rate of 1% and permitting certain transactions to be exempted from capital duty. It is therefore appropriate and acceptable that, by 2010, capital duty is finally to be abolished.

Any further levying of capital duty may lead to losses through lack of investment from other Member States or third countries, and will harm the European internal market, since it constitutes unequal treatment of businesses in the 27 Member States.

Since it has clearly not been possible to achieve the objectives of the directive at Member State level, the EU is required take action. The directive is compatible with the subsidiarity principle laid down in Article 5 of the EC Treaty and does not go beyond what is necessary to achieve its objectives, thus also complying with the proportionality principle.

The recast version of the Directive concerning indirect taxes on the raising of capital should therefore be transposed into national law by the end of this year. It should enter into force on 1 January 2008 and should also apply to the two new Member States Romania and Bulgaria. It is hard to see how the Commission failed to take this into account in its draft of 4 December 2006 (!). The date proposed by the Commission for the entry into force of the directive – 1 January 2007, precisely four weeks after the date of the proposal – is surprising, since it would have been quite impossible for the consultations in the Council and European Parliament to have taken place within the required time.

PROCEDURE

Title	Indirect taxes on the raising of capital (recast version)		
References	COM(2006)0760 - C6-0043/2007 - 2006/0253(CNS)		
Date of consulting Parliament	16.1.2007		
Committee responsible Date announced in plenary	ECON 18.1.2007		
Committee(s) asked for opinion(s) Date announced in plenary	JURI 18.1.2007		
Rapporteur(s) Date appointed	Werner Langen 24.1.2007		
Discussed in committee	8.5.2007	5.6.2007	20.11.2007
Date adopted	21.11.2007		
Result of final vote	+: 38 -: 0 0: 1		
Members present for the final vote	Mariela Velichkova Baeva, Zsolt László Becsey, Pervenche Berès, Slavi Binev, Sharon Bowles, Udo Bullmann, Manuel António dos Santos, Christian Ehler, Jonathan Evans, Elisa Ferreira, Donata Gottardi, Benoît Hamon, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Piia-Noora Kauppi, Wolf Klinz, Kurt Joachim Lauk, Andrea Losco, Cristobal Montoro Romero, Joseph Muscat, John Purvis, Alexander Radwan, Bernhard Rapkay, Dariusz Rosati, Heide Rühle, Eoin Ryan, Antolín Sánchez Presedo, Margarita Starkevičiūtė, Ivo Strejček, Ieke van den Burg, Cornelis Visser, Sahra Wagenknecht		
Substitute(s) present for the final vote	Harald Ettl, Ján Hudacký, Werner Langen, Thomas Mann, Gianni Pittella		
Substitute(s) under Rule 178(2) present for the final vote	Holger Krahmer		