

# International Taxation

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# Cross Border Trade

- direct sales from country of residence
  - via independent sales agent (commissioner)
  - via dependent sales agent
  - via permanent establishment - branch
  - via subsidiary company

Complication: electronic commerce

# Cross Border Investment & Business

- equity investment for gain or dividends
  - debt investments for interest
  - exploitation of IP
  - leasing / rental
- immovable and movable property
- service fees
- etc ...

# Scope of International Tax Law (M. 1)

1. Domestic legislation covering
  - a. foreign income of residents ("world income")
  - b. domestic income of non-residents
2. Domestic legislation and treaty provisions relieving cross-border double taxation
3. Domestic legislation and treaty provisions containing rules against cross-border tax avoidance and evasion
4. Supra-State law (e.g. EU) and jurisprudence

# Scope of Our International Tax Studies

- Treaties and Conventions
- Practice of States (i.e. domestic law)
- Intra-Governmental Organizations  
(i.e. OECD Documentation)
- EU and other jurisprudence
- Scholars

## INTERNATIONAL ORGANIZATIONS AND TAXATION

- |                |   |   |
|----------------|---|---|
| European Union | * | council of ministers  |
|                | * | commission: - directive proposals<br>- actions against<br>Member states |
|                | * | court of justice  |
| OECD           | * | council of ministers  |
|                | * | committee on fiscal affairs   |
| United Nations | * | economic and social council<br>(Ecosoc)                                 |
|                | * | ad hoc group of tax experts   |

WTO; IMF; CIAT; CATA; IFA; IBFD

## What is a Treaty (M. 2)

A tax treaty is an agreement between two States to limit the exercise of their respective taxing jurisdiction and provides a mechanism for bi-lateral engagement between the competent authorities.

# Types of DTAs

- Bilateral > 3,000
- Multilateral Nordic Tax Convention
- Comprehensive (income + capital)
- Limited inheritance and gift tax  
TIEA
- Non-tax - Shipping + air transportation  
- Investment Protection treaties



## Interpreting a DTA m. 2

- The Vienna Convention on the Law of Treaties.
- The OECD Commentary.
- The definitional rule of the OECD Model.

# Objectives of DTAs

- 1) Preventing international juridical double taxation
  - ❖ via limiting taxing rights in source state, and
  - ❖ avoidance of double taxation to be applied in residence state
- 2) Preventing economic double taxation (in transfer pricing matters, Art. 9 Para. 2)
- 3) Preventing discrimination in tax matters (Art. 24)
- 4) Preventing tax avoidance
  - ❖ Limiting tax benefits (beneficial owner; LOB-provision – U.S. Treaties)
  - ❖ Cooperation between tax authorities (Art. 26)
- 5) Stimulating investment in developing countries (via tax sparing credit)
- 6) Protection of taxpayers – mutual agreement procedure (Art. 25)

# OECD Model structure

## Scope (Article 1 and 2)

- Convention applies to tax resident or one both Contracting States.
- Deals with taxes on income and capital.

## Definitions (Articles 3 to 5)

- Terms used in more than one article are described (e.g resident).
- Other terms defined in specific articles (e.g immovable property).

# Allocation of rights to tax

Taxation of income and capital (Articles 6 to 22):

- Respective rights to tax different classes of income are assigned to the State of source (S) and to the State of residence (R).
- Income & capital classified into 3 classes:

Class1. May be taxed without limit in S.

Class2. Income may be subjected to limited taxation in S.

Class 3. Income and capital may not be taxed in S.

# Source taxation of non-residents

## Class 1: Unrestricted taxation

- income from immovable property located in source state
- profits of a permanent establishment, located in source state, of foreign enterprise
- [income from employment in source state if longer than 182 days or cost borne by source state

## Class 2: Restricted taxation (via withholding tax)

- dividends paid by a company residing in source state to foreign beneficiary
- interest paid to foreign creditor

# Source taxation of non-residents

## Class 3: No t a x a t i o n

- Business profits not attributable to a PE
- Royalties (OECD)
- Gains from alienation of shares
- Private sector pensions
- income from employment in source state if less than 183 days and cost not borne in source state

## DOUBLE TAXATION : Two types

Juridical: if one person is taxed twice on same income

- w/h tax and company tax on repatriation of dividends
- tax on PE income and taxed again in head office tax base

Economic: if more than one person is taxed on the same income

- company and shareholder
- transfer pricing adjustments

# COMPARISON

<u>CLASSICAL SYSTEM</u>	<u>FULL IMPUTATION</u>	<u>EXEMPTION</u>
taxable profit 100	taxable profit 100	taxable profit 100
corporation tax 40% <u>40</u>	corporation tax 40% <u>40</u>	corporation tax 40% <u>40</u>
net profit <u>60</u>	net profit <u>60</u>	net profit <u>60</u>
dividends received by indiv. shareholders 60	dividends received by indiv. shareholders 60	dividends received by indiv. Share- holders 60
income tax 50%	<u>30</u> (calculation of income <u>tax 50%</u> ):	
	attributed profits <u>100</u>	
	income tax on attrib. profits 50	income tax 0
	less corporation tax <u>40</u>	
	<u>10</u>	
net income <u>30</u>	net income <u>50</u>	net income <u>60</u>
total tax 40 + 30 = <u>70</u>	total tax 40 + 10 = <u>50</u>	total tax <u>40</u>



## Taxation of dividends from resident companies received by individuals

- Austria : Mitigated classical; final WHT of 25%
- Belgium : Mitigated classical; final WHT of 25% or 15%
- Denmark : Mitigated classical; reduced rate of income tax of 28% or 43%
- Finland : Mitigated classical; flat rate of income tax of 29%
- France: : Imputation (50% of the net dividend)
- Germany : Mitigated classical; only 50% of dividend is taxed
- Greece : Exemption
- Ireland : Classical
- Italy : Imputation (full)
- Luxembourg : Mitigated classical; only 50% of the dividend is taxed
- Netherlands : 30% tax on a deemed return of 4% of the average value of the shares

## Taxation of dividends from resident companies received by individuals

- Norway: : Imputation (full)
- Portugal : Mitigated classical: only 50% of the dividend is taxed
- Spain : Imputation (40%)
- Sweden : Mitigated classical; exemption for dividends from qualifying small companies
- U.K. : Imputation (1/9); income tax rates of 10% (dividend under GBP 29,900) or 32.5% (over)

# Terminology Chapter III OECD Model

- A. “Shall be taxable only”; exclusive right of residence state.  
e.g. Art. 7, Business Profits (unless a **P.E.** in source state), Art. 8 (shipping), Art. 12 (royalties), Art. 21 (other income)
- B. “May be taxed” in source state: unrestricted right of source state (normal domestic rate), e.g. in Art. 6 (immovable property), Art. 7 (**P.E.** in source state), Art. 13 (cap. gains) etc.
- C. “May be taxed” in both source state and residence state:  
restricted right to tax for source state:  
via withholding tax with ceiling, Art. 10 and 11
- N.B. Residence state may always include income originating in source state in taxable base provided that it applies method for avoidance of double taxation

# Scope of Tax Treaty

Article 1, Persons covered:

- persons who are residents of one or both of the contracting states

Article 2, Taxes covered:

- income and capital (irrespective of government level)
- notion of income and capital broad
- the existing taxes at time of signature
- also any identical or substantially similar taxes imposed after the signature
- notification of significant changes

# Partnerships

## A. Tax Treatment

- Treated as a corporate entity (e.g. Spain, Belgium)

Consequences: \* partners are taxable when income is actually received

\* income qualified as dividend (Art. 10)

- Treated as a transparent entity (e.g. Germany, The Netherlands)

Consequences: \* partners are immediately taxable for their share in the profit, whether or not paid out

\* income qualified as business income (Art. 7)

# Partnerships (continued)

- B. Consequence of different treatment, e.g.
- |  |   |
|--|---|
| partnership in Netherlands:<br>domestic partner taxable<br>on profit share<br>partners residing abroad<br>are not taxable<br>(unless P.E. in NL)<br>(Art. 7) | partner residing in Spain:<br>income from partnership<br>only taxable if received (Art. 10) |
|--|---|

Consequence: Spanish partner not taxable if profits are not distributed but accumulated in partnership

- C. Entitlement to treaty benefits?
- Art. 1, 3 and 4
  - Taxable entity / transparent entity not taxable as such

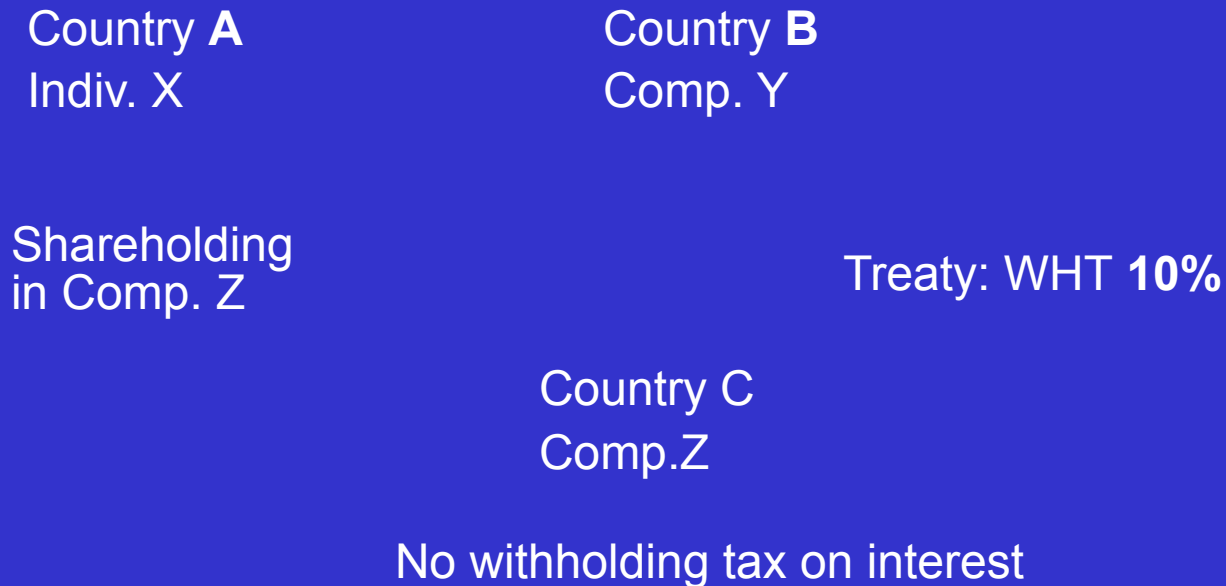
# Intermediary Use of Convention

## A. Original Situation

No treaty



## B. Situation after tax planning



Remedy: “Beneficial owner” concept (Art. 10,11,12)

Problem: Exchange of information is still limited

# Interpretation of Tax Treaties Chapter II OECD Model

\* Art. 3 OECD Model: Six definitions (including person, company)

Art. 4 “ : Definition of resident

Art. 5 “ : Definition of PE

Art. 10-11-12 ” : Definitions of dividends, interest, royalties

\* Terms not defined: e.g. control (art. 9)  
beneficial owner (art. 10, 11 ,12)  
capital gains (art. 13)

\* Art. 3, Par. 2, OECD Model:

Any term not defined shall have meaning under domestic tax law unless the context otherwise requires

\* Vienna Convention on the law of treaties 1969

Article 31: Ordinary meaning in context and in light of object + purpose

Article 32: If result of Art. 31 is ambiguous, obscure, absurd or unreasonable: supplementary means of interpretation



# Art. 4, Residence

- A. Crucial concept for application of tax treaties
- \* Only residents are entitled to treaty benefits
  - \* Reference to definition in domestic tax law, but
  - \* Only full tax liability is sufficient
- B. Collision rules in § 2 + § 3:  
Double taxation as result of dual residence avoided.
- C. Residence of companies:
- \* Place of effective management is most important criterion (Art. 4, § 3)
  - \* Subordinate criteria: - State of incorporation  
- Statutory seat
- D. Place of effective management:  
Place where the important decisions are taken and where implementation is coordinated.

# Art. 5, Permanent Establishment

Art. 7: Business profits shall be taxable only in residence State **A** of enterprise unless enterprise has PE in the other State **B**

Art. 5, § 1: Gives definition of PE:

Fixed place in State B through which the business of an enterprise of State A is carried on.

- \* Place of business: some physical presence (premises, equipment)
- \* Place must be fixed: certain degree of permanence at a distinct place
- \* Business must be carried on through fixed place.

Art. 5, § 2:      \* Non-exhaustive list of examples  
                  \* Criteria of § 1 remain decisive

Art, 5, § 3: Building sites and construction projects are PE only if they last more than 12 months

- \* Term starts when preparatory work “on site” starts
- \* 12 month period applies to each individual site or project

# Art 5, Permanent Establishment

Art. 5, § 4: Which activities do not constitute a PE?

- \* Use of facilities only for storage, display or delivery of goods (if actual selling takes place: always **PE**)
- \* Maintenance of stock of goods only for storage, display or delivery
- \* Maintenance of stock only for purpose of processing by another enterprise
- \* Only purchasing of goods or collecting information
- \* Other activities of preparatory or auxiliary character (“PAC” activities)
- \* Place of business solely for combination of previous points

If activity is essential and significant part of enterprise as a whole:  
Not “PAC” activity!

If activity of fixed place is same as main activity of enterprise:  
Not “PAC” activity!

After-sales service: Not “PAC” activity

Activity performed for third parties: Not “PAC” activity!

# Art. 5, Permanent Establishment

Art. 5, § 5 + 6: Does an agent constitute a **PE**?

- A. Independent agent in ordinary course of his business > not **PE**
- B. Dependent agent (legally/economically dependent) with authority to conclude contracts in name of enterprise: constitutes **PE** unless he only undertakes activities of § 4.

Art/ 5, § 7: Subsidiary company is independent legal entity which does not constitute PE of parent.

# Electronic Commerce

## Country A

Selling  
Company X  
PC



## Country B

[Company Y] Server

Hosts          Connection to  
Websites      internet

Customer PC

- \* Is website a PE of the seller?
- \* Is the server PE of the seller?
- \* Is company Y a dependent agent of the seller?

# Article 7: Business Profits

Country A

Company X

Group Y

Head office

Parent

Art. 7

Art. 7

Art. 10, 11, 12

Country B

PE

Subsidiary

Art. 7

Company X is non-resident  
taxpayer in Country B

Subsidiary is resident  
in Country B

# Article 7, Business Profits

Business Profits: \* Only taxable in residence state of enterprise

\* Unless PE in other state

OECD Rule: No force of attraction:

Only income connected with PE may be allocated to PE

U.N. Model: Attraction by PE if same activity in source state

Some developing countries: Force of attraction; non-PE-related income in source state is allocated to PE

# Article 7, Business Income

## Primary Approach:

Fiction of separate entity for allocation of taxable profits (only for allocation!)

Head Office and **PE** deal at Arm's Length (like two independent parties)

Exception: - Interest, royalties and notional profits of management  
(cannot be charged between H.O. and **PE**)  
- Unless bank (interest)

Deviation: - Goods and fixed assets transferred by H.O. to **PE**:  
Profit realized by H.O. when sold by **PE**

Costs - Also costs incurred by H.O. for the purpose of **PE** are deductible with **PE**



# Article 7, Business Income

## Secondary Approach:

### Global Formulary Apportionment

Basis: Total profit of **H.O.** + **PE** (or whole group)

Formula: Turnover/personnel costs/capital invested (weighed)

Example:

Total profit	<u>100</u>	
Total Turnover	1,000	<b>PE : 500</b>
Total Pers. Cost	200	<b>PE : 100</b>
Total Assets	100	<b>PE : 50</b>

$$\text{Profit PE} = (650 / 1,300) \times 100 = \mathbf{50}$$

Problems:

- \* Does not take into account the actual results of **PE**
- \* Cannot take into account local economic circumstances

# Article 7 , Business Profits

## Dividends/Interest/Royalties

### Source/Situs Country

#### PE Connected

Art. 7  
(Corp. Tax)

#### Not Connected

Art. 10, 11, 12  
Withholding tax  
(Except royalties)

### Residence Country

# Article 10: Dividends

1. Dividends are profits distributed to shareholders:
  - officially declared dividends
  - informal (“constructive”) dividends
2. Taxable in residence State **R** of receiver
3. Limited taxation in source State **S**:
  - Max. 15% withholding tax on gross amount (portfolio dividends)
  - Unless company of State **R** holds directly 25% or more of company in State **S**; then: 5% withholding tax (intercompany dividends)

Withholder: paying company or paying bank in State **S**

System: - Immediate reduction to treaty percentage, or

  - Refund to beneficial owner of difference between domestic rate and treaty rule

## Article 10: Dividends (continued)

4. Only beneficial owner qualifies for reduced withholding tax
5. Note: Art. 10 only covers tax on paid out dividends, not taxation of profits of the paying company
6. Anti-abuse rules: -- beneficial owner (Art. 10)  
-- (not in model) L.O.B. and C.F.C.

# Article 11: Interest

1. Interest is remuneration for money lent
2. Taxable in residence State R of receiver
3. Limited taxation in source State S:  
Max. 10% withholding tax on gross amount  
Withholder: paying debtor  
System: reduction of refund
4. Only beneficial owner qualifies for reduced withholding tax
5. Main difference with dividends: interest is deductible

# Article 12 : Royalties

1. Royalties are payments for use (or right to use) of:
    - Copyrights of literary, artistic or scientific work incl. films
    - Patents, trademarks, tradenames, designs, plans, secret formulas or processes
    - Know-how (industrial, commercial or scientific experience)

[1977 Model: Also payments for industrial, commercial or scientific equipment]
  2. Taxable only in residence state of beneficial owner
- Note: many reservations on this article
- UN Model: Limited right to tax for source State **S**

## Article 15, § 1: Dependent Personal Services

- Main rule (§ 1):

Salaries, wages and similar remuneration taxable only in residence state, unless employment is exercised in the other State;

- In latter case:

- a) Income derived from there may be taxed in other State

- b) Physical presence in other State required

- Conclusion: salaries etc. may be taxed in State where employment is exercised!

## Article 15, § 2: Dependent Personal Services

- Article 15 (§ 2) exception to main rule: taxable only in State of residence if three conditions are met:
  - a) recipient of remuneration present in other State for no longer than 183 days in any 12-month period; and
  - b) employer not resident of other State; and
  - c) remuneration not borne by permanent establishment or fixed base of employer in other State



# Article 18: Pensions

Private pensions and other similar remuneration for past employment taxable only in State of residence of recipient (government pension: see, however, Art. 19)

Social security not for past employment, not covered by this article (see, however, Art. 21)

No definition of pension:

- a) pre-pension payment?
- b) redemption of pension rights?

## Article 21: Other Income

- Sweeping-up clause: all income not dealt with in the previous articles taxable only in State of residence
- Aims to avoid any double taxation
- Exception if income effectively connected to **PE** in the other State

# Article 23a: Exemption Method

## Without Progression:

Net “world” income	100,000
Exempt foreign income	40,000
Net domestic income	60,000

Tax rate 30%

Domestic tax	<u>18,000</u>
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## With Progression:

Tax rate 30% up to 60,000; tax	18,000
Tax rate 50% over 60,000; tax	<u>20,000</u>
Theoretical tax on 100,000: 38,000	(38%)
Effective domestic tax 38% of 60,000	<u>22,800</u>

Note: in tax treaties the condition “if taxed in the source State” is usually not made.

Domestic tax laws usually contain such a condition (e.g. Dutch participation exemption + decree on the avoidance of double taxation 2001).

# Article 23b: Credit Method

## Full Credit:

Net "world" income	<u>100,000</u>	
Domestic tax 30%	30,000	
Foreign tax levied 40% of 40,000	-/-	<u>16,000</u>
Net domestic tax	<u>14,000</u>	

Note: full credit not applied in practice!

## Ordinary Credit:

Net "world" income	<u>100,000</u>	
Domestic tax 30%	30,000	
Foreign tax levied 40% of 40,000 =	<b>16,000</b>	
Domestic tax on foreign income 30% of 40,000 =	<b>12,000</b>	
Credit for lowest amount of the two -->	-/-	<u>12,000</u>
Net domestic tax	18,000	
Total tax	34,000	

# Tax Sparing Credit

- \* included in many treaties between developing and developed countries (not USA)
- \* avoids neutralization of tax incentives in developing countries

Example: (**S** = Source country; **R** = Residence Country)

1. <u>Old Situation</u>	2. <u>Tax Incentive</u>	3. <u>Tax Sparing Credit</u>
Income obtained in <b>S</b>	40,000	40,000
WHT 15% in <b>S</b>	6,000	0
Total income	<u>100,000</u>	<u>100,000</u>
Tax in <b>R</b> 30%	30,000	30,000
Credit	-/- <u>6,000</u>	No Credit 0
Net tax in <b>R</b>	<u>24,000</u>	30,000
Tax <b>S</b> + <b>R</b>	<u>30,000</u>	Tax <b>R</b> <u>24,000</u>

- \* the incentive in 2 only results in higher tax revenue for **R**; in situation 3 the investor benefits from waiving withholding tax in **S**.
- \* under exemption system investor immediately benefits from reduction of withholding tax in **S**.

# Article 24: Non-discrimination

## Forbidden:

- A. More burdensome treatment of nationals of the other State (§ 1)  
if in the same circumstances
  - \* Main circumstance: residence
  - \* A resident and a non-resident of same State are not in same circumstances
    - Different treatment is allowed (except in certain situations in E.U.:  
Schumacker Case)
- B. Less favourable treatment of **PE** of enterprise of other State, than own enterprises if carrying on same activities (§ 3)
- C. Different treatment of deduction of interest or royalty payments depending on residence of receiver in State of the payer or the other State (§ 4)
- D. More burdensome taxation of resident enterprise owned by residents of other State (§ 5)
- P.S. These kinds of discrimination are forbidden with respect to any tax (not limited to the taxes covered as mentioned in Article 2).

# Article 25: Mutual Agreement Procedure

## Taxation not in accordance with provisions of convention:

- \* resident may present case to competent authorities of his State
- \* within three years from first notification
- \* Irrespective of domestic remedies (e.g. appeal to court)
- \* Competent authority must try to find satisfactory solution with comp. Authority of other State
- \* The time limits in domestic law not applicable

## Negative Aspects:

- \* No right for taxpayer to be heard
- \* Neither time limits nor guarantee of solution (except in European Union: arbitration convention: arbitration also included in certain bilateral tax treaties)

# Article 26: Exchange of Information 1

Increasing number of international transactions underlines importance of cooperation between tax authorities

Provision for exchange of information

- to carry out the provisions of the treaty and
- to apply domestic laws
- applicable to taxes or every kind

Secrecy rule – treated as secret in receiving State in accordance with domestic law

Disclosure rule – only to those concerned with tax matters

Limitations on use – only in connection with tax matters



# Article 26: Exchange of Information 2

## Forms of Exchange

- automatic
- spontaneous
- on request

## More Recently

- simultaneous investigations
- joint audit with foreign tax auditor

## Obligations on State to provide information

- reciprocity
- - internal laws and practices
- obtained in normal course of administration
- no disclosure of trade secrets

## Notification to taxpayer

- Required under domestic law in some countries

# European Tax Law

## Parent-Subsidiary Directive

- Purpose: avoiding double taxation on profits distributed within EU: no other tax than corporate tax in country of subsidiary
- Qualifying entities: - both companies must have one of the legal forms of annex  
(Art. 2, 3 + annex) - companies resident in different member states (no dual residence outside community)  
- subject to corporate tax without option  
- minimum holding of 25%  
- (optional) minimum holding period of 2 years or shorter

# European Tax Law

## Parent-Subsidiary Directive

Qualifying payments: "distribution of profits"

(Art. 1, 4 and 5)

- regular distributed dividends
- constructive dividends?
- liquidation profits only exempt from withholding tax

# European Tax Law

## Parent-Subsidiary Directive

- Dividends received: 1) exemption method (dividend not included in taxable income):
- (Art. 4) options: - refusal of cost deductions relating to holding
- cost deduction allowed but max. 5% of dividend not exempt
  - decrease in value of shares not deductible from profit of parent
- 2) credit method: - dividend included in taxable income; tax credit for corp. Tax paid by subsidiary on profit concerned
- optional: second-tier credit (if intermediate EU member applies exemption)

# European Tax Law

## Parent-subsidiary directive

Dividends paid: - 25% holding requirement (lower threshold allowed)

(Art. 5) - no withholding tax

- précompte not covered

- imputation systems not covered

# European Tax Law

## Merger directive

Purpose: - to postpone taxation on capital gains, normally realised with a merger, to later disposal of assets

- safeguarding the claims of the fisc meanwhile

Conditions: - both companies must have one of the legal forms of annex

- companies resident in different member states

(Art. 1 + 3 + annex) - not taxable as resident in non-member state

- subject to listed taxes without option

# European Tax Law

## Merger directive

Types of transaction:  
(Art. 2)

- 1) merger:
  - \* transfer of all assets + liabilities by **A** to **B**
  - \* **A** dissolved >>> **P.E.** remains
  - \* shareholders of **A** become shareholders of **B**
  
- 2) division:
  - \* all assets + liabilities of **A** are transferred to **B** and **C**
  - \* **A** dissolved -- **P.E.** remains
  - \* shareholders of **A** receive pro rata shares in **B** and **C**

# European Tax Law

## Merger directive

Types of transaction:  
(Art. 2)

3) transfer of

- assets:
- \* **A** transfers "branch of activity" to **B**
  - \* **A** receives shares in **B** as compensation
  - \* branch becomes **PE** of **B**

4) exchange

- of shares:
- \* shareholders of **A** transfer majority of voting rights to **B**
  - \* receive shares in **B**
  - \* **A** becomes subsidiary of **B**



# European Tax Law

## Merger directive

System: 1. For mergers, divisions, transfers of assets

(Art. 4, 5, 6, 7 + 9) - roll-over relief: PE continues accounting system

- tax exempt provisions + reserves go to receiving company

- if applicable under domestic law: take over of losses

2. For exchanges of shares

- roll-over relief for shareholders for shares received in exchange

# European Tax Law

## 7. Arbitration Convention

Basis: article 220 (now 293) EU treaty

Objective: removal of double taxation in transfer pricing conflicts

Procedure:

- starting point is mutual agreement procedure
- in case of disagreement after two years of submitting: arbitration committee is set up to give opinion within six months
- tax authorities may agree differently within six months after opinion

# European Tax Law

## 8. Interest/royalty directive

- \* In force since 1 January 2004
- \* Eliminates withholding taxes on outgoing royalty and interest payments within a group of companies in the EU
- \* Achieves equal treatment between domestic and intra EU cross-border payments
- \* Eliminates formalities and cash-flow problems

# European Tax Law

## 9. European company (SE) statute

- \* regulation adopted 8 October 2001 (+ directive on worker involvement)
- \* in force 2004
- \* directly applicable in member states
- \* SE can be set up by:
  - merging two or more public limited companies from at least 2 member states
  - forming a holding company to hold public or private limited companies from at least 2 member states
  - forming a subsidiary of companies from at least 2 member states
  - transforming a public limited company which has subsidiary in another member state
- \* registration of SE in member state of head office; published in ec official journal
- \* no special tax regime yet

## 12. Cross-border Savings Income

Directive 18/7/2001 effective 1 July 2005

- automatic exchange of information
- exception for Austria, Belgium, Luxemburg, Switzerland, some territories:  
no exchange of info, but withholding tax of 15% (for 3 years) and 20%  
(following 4 years)