



UNICE

Union of Industrial and Employers' Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

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UNICE COMMENTS

ON THE PROPOSAL FOR A COUNCIL DIRECTIVE ON A COMMON SYSTEM OF TAXATION APPLICABLE TO INTEREST AND ROYALTY PAYMENTS BETWEEN ASSOCIATED COMPANIES OF DIFFERENT MEMBER STATES (COM(98) 67 FINAL)

On various occasions UNICE has requested that the abolition of withholding taxes on intercompany royalty and interest payments should be put high on the list of priorities in the field of company taxation, as withholding taxes represent a potential obstacle to international capital flows. UNICE therefore welcomes the Commission's initiative to submit to the Council a proposal to this end and it wishes to express its full support.

UNICE particularly welcomes the extension that has been given to the scope of the Directive, compared to its predecessor, in that payments between associated companies are now generally covered rather than only those between subsidiary and parent.

However, UNICE feels that there are still some areas in which the draft Directive is open to improvement.

Holding Period

UNICE believes that the Directive should apply to a company from the date it becomes a member of a group, with EU Member States allowed to apply a withholding tax only if a company leaves a group within two years after becoming a member. Requiring the continuous ownership of a company for two years for the Directive to apply would unnecessarily penalise growing companies and those expanding through acquisition. UNICE believes that the requisite holding period mentioned in article 3 of the proposed Directive should be reduced to one year, since in UNICE's view ownership for a full year is sufficient to indicate a serious investment.

Holding Percentage

Bearing in mind that the ultimate goal is to eliminate withholding taxes on all royalty and interest payments, the minimum level of ownership required under the Directive should be as low as possible. UNICE suggests a level of 10% since it represents an important business commitment, indicating the type of relationship that would merit avoiding the consequences of withholding taxes.

Article 6 and 7

UNICE supports the general anti-abuse clause as laid down in article 6, but it has a major problem with the additional provisions in article 7. The intention of the Directive is to exempt intercompany interest and royalty payments from withholding tax. Whether or not the state of the recipient taxes the interest and royalties is a matter of national tax policy and has nothing to do with abuse of the

Directive. Moreover, these provisions seem to be premature pending the outcome of the discussions in the Code of Conduct Group. UNICE therefore urges the Council to delete article 7.