



Various proposals of law

Taxplan 2005 (“Belastingplan 2005”): lowering the nominal tax rate to 30%

This proposed law, which was filed with the Dutch Second Chamber on 21 September 2004, includes the following proposed amendments which are supposed to enter into force on 1 January 2005:

- ❖ abolishing the right for employees receiving stock options to choose between having the estimated value of the option taxed or having the gain upon exercise of the option taxed. It is proposed to always only tax the gain. On the other hand the employing company will only be allowed to deduct the deemed value of the option at the time the option is vested; the time of such a deduction will be determined by Ministerial Decree;
- ❖ as of 1 January 2005, the Dutch corporate income tax (“CIT”) rate is reduced from 29% to 27% for profits up to Euro 22,000 and is reduced from 34.5% to 31.5% for profits above that. These percentages drop to 26% and 30.5% as of 1 January 2006 and to 25% and 30% as of 1 January 2007. For financial years differing from calendar years, the rates are applied on a pro rated basis using the number of days in each calendar year as determining factor;
- ❖ the Dutch surtax regime is abolished as of 1 January 2005 instead of 1 January 2006. The surtax was a surcharge levied on deemed excessive dividend distributions. Although this is good news, it would have been even better if this tax was abolished with retro-active effect to 1 January 2001. [Background information](#) is available on our website;
- ❖ in a preliminary amendment to the above proposal of law, filed on 13 October 2004, it is also proposed to extend the tax facilities for the Dutch film industry by extending the current tax facilities available to investors in film project from 1 January 2005 through 31 December 2007. This proposal is subject to approval by the EU.

Other tax measures 2005 (“Overige fiscale maatregelen 2005”)

This proposal of law, which was filed with the Dutch Second Chamber on 15 September 2004, does not have substantial amendments with regard to the general international corporate tax practice. The proposed amendments deal with the tonnage regime for shipping (some with retro-active effect to 1 January 2003), dividend tax consequences for the redemption of shares by Dutch Mutual Investment Funds (listed and unlisted) and an extension of the Dutch tax jurisdiction over the Dutch continental shelf on energy produced from water, ocean streams and wind. Significant suggested amendments to other laws include: the introduction of accumulating penalties (automatically increasing through the passage of time) for not providing information required under law about other taxpayers (e.g. clients) and for not keeping an administration for audit purposes; the proposed implementation of the Hughes de Lasteyrie du Saillant case; and an extension on Dutch national legislation allowing the exchange of information among tax authorities in connection with the extended application of the Savings Directive to third countries such as Switzerland.. We refer to our separate article under our EU news section for more information about this.

Further amendments to the national law on exchange of information between tax authorities

In two separate proposals of law, the Dutch national law on the exchange of information is amended in order to comply with EU law. These proposals are discussed further under our EU news section.

Parliamentary questions on the proposed law abolishing article 12 CIT taxation with the debtor on the conversion of debt

We refer to our newsletters of [9 August 2004](#), [6 July 2004](#) and [9 January 2004](#) for further information. We are happy to see that in their review of the proposed law, published on 11 October 2004, all the major political parties have request for this regime to be effectively abolished with retro-active effect to 2001.

Parliamentary questions on the proposed law regarding deduction of acquisition costs participations

We refer to our newsletter of [6 July 2004](#), [10 June 2004](#) and [9 January 2004](#) on this proposal of law. The law has meanwhile been adopted by the Second Chamber and is up for debate in the First Chamber. The report on questions from the First Chamber of 16 September 2004 the two largest political parties both made critical observations about the limited retro-active effect of the deductibility of acquisition costs and the complicated nature of the rules (eventhough these have been relaxed considerably when compared to the initial draft legislation). Although a bill can not be changed by First Chamber, it is still possible for the government make concessions on the interpretation or application of that bill in order to get it approved; time will tell.

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The Dutch CIT rate is reduced to 31.5% in 2005, 30.5% in 2006 and 30% in 2007

The First Chamber made critical observations about the limited retro-active effect of the deductibility.

Calculating exempt gains under participation exemption

In a Q&A decree of 10 September 2004, the State Secretary of Finance clarified the following: ABV holds an interest in BCo. At the time of the acquisition the interest was not covered by the participation exemption (e.g. minimum interest test not met), it now is (e.g. because the minimum interest test is now met). Because ABV valued the BCo shares at their average cost price, the State Secretary believes that if a part of the shares are sold, ABV has to report a pro rata part of any gain as being taxable and not covered by the participation exemption, i.e. it is not possible to apply a Last In First Out (“LIFO”) system when calculating the taxable gain.

Although we agree with this outcome, we do not believe that the State Secretary’s reason supports it: the transfer of the interest in BCo into the realm of the participation exemption does not lead to a direct tax liability, no matter which system of valuation ABV uses. I.e. if the State Secretary’s line of argument is to be followed consistently, it should also be true that if ABV holds an interest in BCo and values it at LIFO, then the transfer into the realm of the participation exemption would not lead to any direct tax liability. Should ABV subsequently sell part of its BCo shares, the full gain will be exempt until ABV gets to the shares that originally did not qualify for the participation exemption.

Paying exempt gain to third party not deductible

The High Court of Amsterdam decided in the following case on 25 August 2004. XNV formed a tax consolidated group with its subsidiary YBV; both parties were resident in the Netherlands. In 1995, YBV acquired ZBV for NLG 5 million. It agreed that if YBV sold its shares in ZBV during the first five years after acquisition, it would transfer a part of the gain to the vendor. This would be 100% of any profit on such a transfer in the first year, 80% in the second, 60% in the third, etc. In 1999, YBV sold ZBV to HBV for NLG 350 million and transferred NLG 70 million of that amount to the vendor. The question before the Court was whether this NLG 70 million was deductible.

The taxpayer argued that the amount should be treated as a conditional liability to the vendor that was realised in full in 1999 and should be deductible in that year; according to the taxpayer it was impossible to determine the value of the debt liability at the time of the acquisition. The tax inspector argued that the vendor continued holding a (declining) interest in the shares after the sale in 1995; he based his argument inter alia on the wording of the purchase agreement with YBV that stated that YBV had to transfer the funds, which implied that those funds belonged to the vendor already. The vendor (or in this case its actual legal successor) was not subject to Dutch tax on the amount transferred. The High Court followed the reasoning of the tax inspector and ruled against the taxpayer. We wonder whether the court would have decided differently if the amount received by the vendor was subject to tax.

An appeal has been filed against the High Court’s decision. The outcome thereof should be interesting since, at the time of the sale to YBV, a Dutch Supreme Court doctrine applied according to which contingency fees had to be valued at the time the agreement from which the contingency fees follow was made. This estimated value had to be added to the cost price of the acquired participation. If the actual payments made under the contingency arrangement were higher than the original estimate made by the purchaser, the difference was deductible; if lower, the difference was taxable. Since purchasers had an interest in making the estimate as low as possible and vendors to make them as high as possible, this doctrine led to some problems in practice. Since 2001, the law states that all payments made under contingency arrangements in connection with the acquisition or disposal of a participation are sheltered from taxation under the participation exemption and, this has become less of an issue.

Loan not requalified as informal share capital

According to Dutch law, the waiving of a loan is treated as a taxable profit to the debtor, unless it can be proved that the loan was waived under arm’s length circumstances for business reasons. In that case, the amount waived which exceeds the debtor’s tax losses carried forward, is exempt from corporate income tax. Alternatively, if the creditor is a shareholder in the taxpayer, then it could be assumed that the waiving of the loan was an informal capital contribution, provided that the creditor waived the loan in its capacity as a shareholder and not in another capacity, e.g. as trade partner.

From 1985 through 1993 a taxpayer, NLCo, received annual loans from its parent, YCo, via its current account with the parent. No loan agreements were made. Most of these loans were waived. In 1989, an amount of NLG 16 million was lent of which NLG 13 million was waived. NLCo treated the waived amounts as informal capital contributions for tax purposes, but as profit for commercial purposes. According to the minutes of a shareholders meeting, the amounts waived during 1988 – 1992 concerned “an undue compensation for ...opening new markets, development of new products, etc.” The High Court of Arnhem determined in 1998 that the legal form of the funds, i.e. being loans, was determinative; that the facts did not require another interpretation; that there was no reason for the creditor to believe that the loan would not be repaid; and that the loans were not sham transactions, i.e. equity contributions disguised as loans. Consequently, the waiving of the loans was subject to Dutch income tax. The Court added to this that it might have decided otherwise, if NLCo was prepared to disclose who its ultimate shareholders were, since it might then have been able to determine that the loans, or the waiving of the loans, were made by the shareholders in their capacity as shareholders. However, since NLCo refused such disclosure, the consequences of not being able to verify this, is for NLCo’s account.

NLCo appealed against the decision and the Dutch Supreme Court decided on 15 March 2000 that the Arnhem High Court did not fully motivate its decision and that it still had to be investigated whether there was any reason for the creditor to believe that the loans extended would not be repaid. In view of the fact that NLCo continued to refuse to disclose the identity of its ultimate shareholders, the High Court of Den Bosch decided on 10 June 2002 that this was

not the case. This court determined that a fair division of the burden of proof required NLCo to prove that the loans were not loans but informal capital contributions. However, since NLCo would not disclose the identity of its shareholders, it was also impossible to determine that the loans were not extended for business reasons, such as payments for market penetration, etc. NLCo appealed against this decision as well, but on 17 September 2004, the Dutch Supreme Court finally decided against NLCo, leaving NLCo with total debts waived during 1985 through 1993 of NLG 64 million.

This case is interesting for a number of reasons. First, because of the price the group is prepared to pay to conceal the ultimate shareholders' identity. It is speculated in the court documents that this is done for competition reasons (i.e. that the ultimate shareholder was a market monopolist), but this is not confirmed. Next, the waiving of a loan was usually treated as an informal capital contribution for Dutch tax purposes, thereby effectively not leading to corporate income tax for the debtor. This was changed in 2001, by disastrous legislation, which is about to be changed again, see our first article hereabove under "abolishing article 12 CIT". Next, the various courts in this case consistently pierced the corporate veil of NLCo's direct shareholder and actual creditor, YCo. One may wonder whether the fact that YCo was a Jersey Ltd and that two of its major shareholders were Liberian (42%) and Panamanian companies (41%), had anything to do with this. Finally – and with the inevitable wisdom of hindsight - it needs to be pointed out that all of the above could have been avoided, if NLCo and its creditor/shareholder simply agreed that the amounts due would be contributed to NLCo (and then used to repay the debts) both for accounting and tax purposes, rather than trying to present a profit in the commercial accounts and losses in the tax accounts.

Q&A Decree on transfer of losses upon deconsolidation

On 22 September 2004, the Dutch Ministry of Finance issued a Q&A Decree on certain aspects of the losses of a tax consolidated group at the time a member is deconsolidated. The default rule is that upon deconsolidation the losses of the consolidated group remain with the parent of the consolidated group, even if those losses were suffered by the deconsolidated company during the time it was consolidated. However, the parent and the company to be deconsolidated may request that the losses which can be allocated to that subsidiary be transferred to that subsidiary upon deconsolidation. According to the Q&A decree:

- ❖ it is not possible to only transfer a part of the deconsolidated subsidiary's losses to it. It is a matter of all or nothing;
- ❖ it is not possible to link the losses to certain activities of the group and to then transfer the losses from those activities to the deconsolidating subsidiary by transferring those activities to that subsidiary; and
- ❖ a grandparent, a parent and a subsidiary form a consolidated group where the parent has losses to be carried forward. If the grandparent disposes of the parent and the subsidiary, then the tax consolidated group is dissolved. While it is possible to form a new consolidated group between parent and subsidiary, the parent's losses will be treated as its pre-consolidation losses in the new tax consolidated group: it will not be possible to offset these against the subsidiary's profits in the new consolidated group, even though this would have been possible in the old consolidated group.

New general decree for treaty dividend/interest reductions/refunds

On 28 September 2004 the Dutch Ministry of Finance issued two decrees on the procedures to be followed under Dutch tax treaties for the reduction at source or refund of Dutch taxes on dividends and the forms to be filed. These decrees apply to most Dutch tax treaties on income with the exception of those with the US, the old treaty with Belgium, France, Switzerland and the Tax Agreement for the Kingdom of the Netherlands, which retain their own applicable rules. The decrees aim to standardise the procedures to be followed for getting reductions or refunds as well as the forms to be used. The decrees will be applicable to all distributions of dividends (and we assume profit sharing payments of interest) made on or after 1 October 2004. The forms, IB 92 Universal for reductions at the source and IB 93 Universal for refunds, are available in Dutch, English and German and should be downloadable from www.belastingdienst.nl (at the time of writing this article, the forms do not seem to be available yet).

Call and put options can not transfer beneficial ownership

ABV acquired real estate, presumably from an unrelated party, for NLG 1.485.000, on 20 March 1997. The next day ABV leased this real estate to its sole shareholder, X, an individual resident in the Netherlands. The lease price was NLG 108.000 per annum, being approximately 7% of the purchase price. At the same time ABV concluded a call and put option arrangement with X whereby X could acquire the real estate between 1 January 1999 and 31 December for NLG 1.465.000 and ABV could sell to X the real estate for the same price during the same period. X exercised its call option on 20 December 2000.

The tax inspector and the High Court – who both clearly knew nothing about the pricing of options – argued that ABV should have charged X NLG 385.000 for the call-put arrangement. Since it did not, this amount got treated as a deemed dividend distribution to X. Upon appeal before the Supreme Court, this Court fortunately annulled the decision regarding the deemed value of the put-call arrangement. However, at the same time the Supreme Court also determined that X could not be treated as the beneficial owner of the real estate until either of the options got exercised, in spite of the fact that X carried both the upside potential and the downward risk on the real estate as of 21 March 1997.

This decision seems contrary to the Supreme Court's decision of 22 November 2002 in the so-called Falcon case, where the Supreme Court decided that the gain realised by the holder of a call option on shares can qualify for the participation exemption. Since one of the conditions of the participation exemption is that the beneficiary of the

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income or gain must have beneficial ownership of the shares generating that income or gain, that decision implied that the holder of such an option has such beneficial ownership. It follows that if a person only entitled to the upside of an asset holds beneficial ownership in that asset, then surely a person holding both the up- and the downside must have it too. At a more remote level, the decision also seems contrary to controversial decisions of the same Supreme Court of 21 February 2001 on employee stock options where that Court determined that the holder of an option is in such a relation to the company providing the option that it resembles that of a shareholder (already – Dutchtax.net) for corporate income tax, dividend tax and capital duty purposes. It thus seems to remain unclear whether the current decision would be of help in structured finance transactions in answering the question whether a combination of a put and a call at the same strike price should result in the transfer of (beneficial) ownership or not.

Other points of interest

- ❖ An individual resident in Belgium, X, was the owner and employee of a company in the Netherlands, YBV. In 1998 X worked for the BV and had a receivable from it, but charged YBV neither wages nor interest. Under Dutch law, wages and interest was imputed to X's income; the wages were subject to Dutch personal income tax and the interest to a 10% withholding tax under the Dutch/Belgium treaty. Naturally, X paid no tax on this deemed income in Belgium. On 5 March 2002 the High Court of the Hague determined that deemed income was deductible for YBV. The inspector wanted to disallow the interest deduction because he contended that it should have been subject to a reasonable tax and that the 10% Dutch withholding tax was not sufficient. The Court rejected this argument since the reasonable taxation argument – obviously – can not apply to deemed income.
- ❖ In a decision dated 24 September 2004, the Dutch Supreme Court confirmed that when intra group management and financial services are provided to entrepreneurs in the Netherlands, those services must be broken down to determine the VAT characteristics of each service. If the service provider is not Dutch, then services on a financial, commercial and strategic marketing level which can not be broken down further, must be deemed to be rendered (and taxed) where the service provider is situated and is therefore not taxable in the Netherlands.
- ❖ On 5 October 2004 the Dutch Ministry of Finance issued a decree confirming that companies incorporated under the laws of Gibraltar have the right legal form to qualify for the benefits of the EC Parent Subsidiary Directive.
- ❖ In a unique move, the Dutch and French Governments signed a protocol to their double tax treaty on 7 April 2004. The protocol's sole purposes is to ensure that, after the KLM - Air France merger, profits generated by KLM will remain taxable in the Netherlands. The protocol was filed with the Dutch parliament on 10 September 2004 and will be deemed to have been approved if Parliament does not react before 14 October 2004. The protocol will have retro-active effect to the date of the merger, 1 April 2004.
- ❖ On 8 October the Dutch Supreme Court rejected the Dutch government's appeal against the deduction of interest discussed in our newsletter of [11 April 2003](#) under "Limitations on the deduction of interest". The Supreme Court confirmed rightly that there was no link between the dividend distributions made to the shareholder and the subsequent loans made from the shareholder, so that the Dutch base erosion rules could not apply.

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On 27 October Dutchtax.net will be giving a 1 day Dutch tax course in New York in collaboration with the European American Tax Institute. The goal of this course is to give participants a thorough, basic understanding of Dutch taxation of corporations. The course adopts a top-down approach, starting with the basic legislative and jurisprudence, progressively dealing with more complex topics in further depth and showing the practical effects through case studies. [See here](#) for more information

EU related tax developments

Proposed laws on exchange of information

In three separate proposals the Dutch national law on the exchange of information among tax authorities and mutual assistance in the collection of taxes is amended.

- ❖ In the proposed law called "Other tax measures 2005", the possibility of an exchange of information with third countries such as Switzerland and the Netherlands Antilles is opened under national law. This is done by declaring that such countries could be treated as EU member states for purposes of applying the [EC Savings Directive \(2003/48/EC\)](#). If adopted, these amendments will enter into force and be effective per 1 January 2005.
- ❖ Proposal of law number 29.755 of 7 September 2004 implements the amendments made to [directive 77/799 EEC](#) by [directive 2004/56/EC](#) on mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums. This bill implements measures to allow for informing taxpayers about requests for mutual assistance and the preparation for simultaneous audits in different member states. Directive 2004/56/EC also introduces rules regarding the use of exchanged information during legal procedures and rules on how to treat requests for mutual assistance; these rules do not require any amendments of the existing Dutch legislation. If adopted, the bill will become effective per 31 December 2004.
- ❖ Proposal of law nr. 29.615 of 2 June 2004 implements directive [2003/93/EC](#) on mutual assistance among member states and Regulation [1798/2003 EC](#) on the extension of mutual assistance for value added tax purposes. On 9 September 2004 parliamentary questions were asked about the reduction of taxpayers' protection under the regulation and the proposed bill in the sense that neither allow taxpayers to be notified about any mutual assistance requests on VAT. The government responded on 23 September by basically saying that taxpayers still have sufficient other protection and that notification only lead to double protection, which is not necessary (?).

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- ❖ The above **directive**, and the bill, also extends the mutual assistance procedures to Dutch taxation on insurance premiums. The Regulation, which has direct effect, entered into force on 1 January 2004. The proposed bill will enter into force and become effective when adopted and published in the Government Gazette.

Proposed law to implement H.de Lasteyrie du Saillant

In its decision in the Hughes de Lasteyrie du Saillant case ([Case-C9/02](#)) of 11 March 2004, the EU Court of Justice (ECJ) determined that the freedom of establishment precludes member states from establishing a mechanism for taxing unrealised capital gains where a taxpayer transfers his tax residence outside that state. In the case at hand that meant that France could not require emigrants to other states to provide guarantees for the potential tax due on the unrealised capital gains. The Netherlands also have various exit tax regimes for individuals holding a substantial interest in a company (5% or more any class of share), for individuals holding certain pensions, life insurance plans or mortgage finance schemes, for individual entrepreneurs and for corporate taxpayers. The exit taxes for individuals (excluding entrepreneurs) are linked to a mechanism similar to the relevant French system of preliminary assessments and guarantees upon exit. That system is dropped as of 11 March 2004, first by interim decree and now by the proposed law. However, the exit tax regime for individuals remain applicable for emigrants to countries outside the EU, including emigrants to Norway, Liechtenstein and Iceland, which – together with the EU -are members of the European Economic Area (hereafter “EEA”). Similar provisions on the freedom of establishment apply within the EEA as within the EU. The Dutch government justifies excluding the EEA by arguing that there is no mutual tax collection assistance directive with these countries, as there is within the EU. It will ultimately be up for the ECJ to decide if that is a reason for not applying the de Lasteyrie case to Iceland, Norway and Liechtenstein.

The proposed amendments implementing the de Lasteyrie decision concern the following:

- ❖ the abolishment of any guarantee upon emigration to an EU member state;
- ❖ a preliminary assessment is still made, but not collected. Contrary to the current measures, any decrease in value of the unrealised gain on a substantial interest is deducted from the basis of the above preliminary assessment;
- ❖ further measures regarding pensions and life insurance plans apply both regard to the valuation of the pensions and with regard to the tax liabilities of the pension funds / insurers.

The Dutch Order of Tax Advisers (“Nederlandse Orde van Belastingadviseurs”) responded to the above proposal of law by, among others, questioning the justification of the decision not to extend the proposed legislation to the EEA or to other Dutch treaty countries where the relevant tax treaty facilitates mutual tax collection assistance. They also suggested to extend the system of preliminary assessments to individual entrepreneurs and corporate taxpayers instead of continuing the current system of taxation on unrealised gains.

Dutch High Court rules on freedom to provide services

In order to qualify for certain tax deductions available to individual entrepreneurs, they need to spend a minimum amount of hours per year in the exercise of their business. On 8 September 2004 the High Court of Arnhem came to the interesting conclusion that the hours spent by an entrepreneur (jazz pianist) outside the Netherlands could not be included in the amount of hours for qualifying for the entrepreneurial tax deductions.

During 1996 an entrepreneur, X, generated 21% of his income in the Netherlands, 25% in Switzerland and the remaining 54% in other EU member states. The Court followed the law and the tax inspector in determining that hours spent abroad for generating income which is exempt from Dutch income tax under a measure for the relief of double taxation can not also qualify for the entrepreneurial tax deductions. The Court determined that this measure is not discriminatory since taxpayers working inside in the Netherlands are not in a similar situation as X was, who also worked outside the Netherlands. The Court also determined that X could not be compared to an entrepreneur exercising his right of establishment in other member states.

As the ECJ repeatedly determined, a justification along the lines of “rendering services at home is not comparable to rendering services abroad” would make the fundamental freedoms completely illusory. Therefore, the criterium used by the Court seems flawed. It seems to us that the Court should instead have investigated whether X would have paid the same amount of tax over 21% of his income if all his income was generated in the Netherlands as X did in practice. If the answer is that X paid more, then the requirement to ignore hours spent outside the Netherlands to generate exempt income should be qualified as constituting a restriction on the fundamental freedom to provide services. If this restriction can not be justified by a legitimate cause, then X must be entitled to the entrepreneurial deductions.

Finally, it is important to point out in this regard that the fact that X paid less income tax on his other income in the other states than he would have paid in the Netherlands (e.g. because X only received income in low income tax brackets in each of those countries), is very unlikely to constitute a legitimate justification for the restriction on the freedom to provide services. Afterall, the ECJ has ruled repeatedly, first, that a restriction can not be justified by tax benefits enjoyed elsewhere and, second, that the fact that one country levies less tax than another, can also not justify any restriction. Besides, this advantage is eliminated by the fact that the Netherlands only provides an exemption for foreign income tax after including the exempt income in the worldwide taxable income of X, thereby upholding the Dutch increasing rates over higher income.

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- ❖ On 8 October 2004 the Commission issued a [Q&A memo](#) on the European company, with questions such as “what is a European company” and “where will a European company be taxed”.
- ❖ Keeping with the European company, [a study](#) conducted by Deloitte on potential competition and discrimination issues relating to a pilot project for an EU tax consolidation scheme for the European company was published on 18 August 2004. The study is intended to further the debate on a possible EU company tax regime for companies established as "Societas Europaea".
- ❖ On 2 September 2004 the European Commission (Taxation and Customs Union Directorate-General) published a [summary report](#) on the outcome of its consultation on the "Recast of the Sixth VAT Directive". The idea is to produce a document that will provide a clear overview of existing VAT legislation. The result so far is a [draft document](#) codifying existing legislation consisting of 338 pages.
- ❖ On 13 September 2004 the Commission published [the results](#) of informal meetings of government officials on identifying possible obstacles to cross-border mergers and takeovers in the banking sector. At the same meeting it was also decided to create a working group of Member States to consider the idea of allowing all companies to use a common consolidated set of rules for calculating their EU-wide taxable profits, based on [previous papers](#) published by the Commission.
- ❖ On 9 September 2004 the Commission published [a survey](#) of the compliance costs of EU companies. The survey confirms the need for the Commission's suggestion that companies should be allowed to use a single basis of assessment for corporate tax for all their EU-wide activities so as to avoid the costly inefficiencies of dealing with EU Member States' twenty-five different company tax systems.
- ❖ The Commission opened enquiries to state aid investigation on [Italian fiscal incentives](#) for collective investment in SME's. It opened a similar investigation on [UK incentives](#) for investments in “Enterprise capital funds”.

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