29 October, 2010
Taxand

European Commission
Directorate-General for Taxation and Customs Union
Rue de Spa 3, Office 8/17
B-1049 Brussels
Belgium

Dear Sir / Madam

Re: Taxand Responds to the European Commission Consultation Paper on EU Interest and Royalties Directive

Further to the publication of the European Commission's consultation paper on cross border and royalty payments, Taxand is honoured to provide combined feedback from its Taxand countries and advisors resident in the European Union.

Q1: See Appendix I.

Q2: Do you think that there is a need to update the list of companies covered by the Directive?

Yes

Q3: Do you think that the list annexed to the Directive should cover the same legal types as are included in the list of the Parent-Subsidiary Directive, including the European Company and the European Cooperative Society?

Yes

Q4: Do you think that the list should be extended so as to include other types of companies not referred to the Parent-Subsidiary Directive?

Yes. Transparent Entities or all the legal types covered by OECD Model Tax Convention, articles 1 through 4.

Q5: Do you consider it beneficial to allow indirect shareholders to be taken into account when the minimum shareholder is being determined?

Yes

Q6: Do you think that there is a need to change the minimum shareholding requirements?

Yes

© Taxand Economic Interest Grouping 2010

Groupement d'intérêt économique - RCS : C 68
1B, Heienhaff - L – 1736 Senningerberg (Luxembourg)
Banque et Caisse d'Epargne de l'Etat, Luxembourg
IBAN LU49 0019 2855 1871 6000, BIC : BCEELULL
VAT identification : LU 220 135 38

Q7: Do you think that the shareholding requirements of the Interest and Royalties Directive should be reduced to 10% and thus be aligned with those established in the Parent-Subsidiary Directive?

Yes

Q8: Do you think that the shareholding requirements of the Interest and Royalties Directive should be reduced below 10%?

No

Q9: Do you currently suffer from double taxation and /or additional administrative costs because the Directive does not extend to transactions between unrelated undertakings (not associated)?

No

Q10: Do you think that the text of the Directive should be clarified in order to guarantee that its benefits apply to interest and royalty payments constituting an expense attributable to permanent establishments?

Yes

Q11: N/A to Taxand

Taxand's Take

We appreciate this opportunity to provide our feedback to the European Commission and would be pleased to discuss this further and / or to participate in any additional discussions on these matters.

In this respect, we consider that any future work on the Directive should bring with it an enlargement of the types of companies covered as well as a reduction on the shareholding percentages, in order to put this Directive in line with the Parent-Subsidiary Directive. Additionally, there are technical issues which could also be addressed, such as the application of the Directive to payments between head offices and permanent establishments.

Taxand is wholly committed to supporting the European Commission's work and we look forward to contributing to further debate.

Yours faithfully,
Taxand

© Taxand Economic Interest Grouping 2010

Groupement d'intérêt économique - RCS : C 68
1B, Heienhaff - L – 1736 Senningerberg (Luxembourg)
Banque et Caisse d'Epargne de l'Etat, Luxembourg
IBAN LU49 0019 2855 1871 6000, BIC : BCEELULL
VAT identification : LU 220 135 38

APPENDIX I

CONTACT DETAILS

Álvaro de la Cueva
Taxand Spain
T. +34 91 514 52 00
E. alvaro.de.la.cueva@garrigues.com

IDENTIFICATION OF STAKEHOLDER

- Tax advisor or tax practicioner

Name/denomination of your organisation/entity/company:

- Taxand

Country of domicile:

- Luxembourg

Brief description of your activity or your sector:

- Taxand provides high quality, integrated tax advice worldwide. Our global team of leading tax advisors brings a truly international perspective on tax to every engagement. We deliver services our clients seek at the global level, on a global scale. Wherever multinationals face tax issues, we can help—by providing high quality advice that addresses strategic concerns. We apply our expertise to eight overarching global tax service areas: Compensation, Equity & Employment Tax, International Tax, Indirect Tax, Tax Litigation, Transfer Pricing, Transaction Tax, Real Estate Tax and Individual Tax. Taxand advisors can help optimise business performance and improve the bottom line.

Do you object to publication of personal data on the grounds that such publication would harm your legitimate interests?

- No

Do you agree to having your response to the consultation published along with other responses?

- Yes

© Taxand Economic Interest Grouping 2010

Groupement d'intérêt économique - RCS : C 68
1B, Heienhaff - L – 1736 Senningerberg (Luxembourg)
Banque et Caisse d'Epargne de l'Etat, Luxembourg
IBAN LU49 0019 2855 1871 6000, BIC : BCEELULL
VAT identification : LU 220 135 38

ABOUT TAXAND

Taxand provides high quality, integrated tax advice worldwide. Our tax professionals, nearly 400 tax partners and over 2,000 tax advisors in nearly 50 countries - grasp both the fine points of tax and the broader strategic implications, helping you mitigate risk, manage your tax burden and drive the performance of your business.

We're passionate about tax. We collaborate and share knowledge, capitalising on our collective expertise to provide you with high quality, tailored advice that helps relieve the pressures associated with making complex tax decisions.

We're also independent—ensuring that you adhere both to best practice and to tax law and that we remain free from time-consuming audit-based conflict checks. This enables us to deliver practical advice, responsively.

Visit www.taxand.com to access more than 2,000 leading Taxand advisors across nearly 50 countries.

Taxand has achieved worldwide market recognition. In the International Tax Review's (ITR) World Tax 2011, over 95% of Taxand countries are ranked top for the second year running. Taxand won Latin America Tax Disputes Firm of the Year and 2 national awards at the 2010 ITR Americas Tax Awards and European Indirect Tax Firm of the Year and 5 national awards at the 2010 ITR European Tax Awards.

In total in 2009 Taxand won 10 ITR awards in Europe, 5 in Asia and 3 in the Americas and was nominated for some 48 ITR awards. Taxand won the International Tax Review's (ITR) best newcomer awards for delivering best-in-class cross border advice throughout Europe, across the Americas and over Asia Pacific in 2008. Moreover, 33 Taxand countries were voted top in the ITR tax transaction survey 2010 and 30 were ranked top in the ITR tax planning survey 2010.

www.taxand.com

© Taxand Economic Interest Grouping 2010

Groupement d'intérêt économique - RCS : C 68
1B, Heienhaff - L – 1736 Senningerberg (Luxembourg)
Banque et Caisse d'Epargne de l'Etat, Luxembourg
IBAN LU49 0019 2855 1871 6000, BIC : BCEELULL
VAT identification : LU 220 135 38