Council Directive of 23 July 1990 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office, of an SE or SCE, between Member States (90/434/EEC) (repealed)

TITLE V

Final provisions

Article 11

[[F1]1 A Member State may refuse to apply or withdraw the benefit of all or any part of the provisions of Titles II, III, IV and IVb where it appears that the merger, division, partial division, transfer of assets, exchange of shares or transfer of the registered office of an SE or an SCE:

a has as its principal objective or as one of its principal objectives tax evasion or tax avoidance; the fact that one of the operations referred to in Article 1 is not carried out for valid commercial reasons such as the restructuring or rationalisation of the activities of the companies participating in the operation may constitute a presumption that the operation has tax evasion or tax avoidance as its principal objective or as one of its principal objectives;

b results in a company, whether participating in the operation or not, no longer fulfilling the necessary conditions for the representation of employees on company organs according to the arrangements which were in force prior to that operation.**]**

2 Paragraph 1 (b) shall apply as long as and to the extent that no Community law provisions containing equivalent rules on representation of employees on company organs are applicable to the companies covered by this Directive.

Textual Amendments

F1 Substituted by Council Directive 2005/19/EC of 17 February 2005 amending Directive 90/434/EEC 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States.

Article 12

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1992 and shall forthwith inform the Commission thereof.

2 By way of derogation from paragraph 1, the Portuguese Republic may delay the application of the provisions concerning transfers of assets and exchanges of shares until 1 January 1993.

3 Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 13

This Directive is addressed to the Member States.