

Council Directive 2014/86/EU of 8 July 2014 amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States

COUNCIL DIRECTIVE 2014/86/EU

of 8 July 2014

amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 115 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>(2)</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Directive 2011/96/EU<sup>(3)</sup> exempts dividends and other profit distributions paid by subsidiary companies to their parent companies from withholding taxes and eliminates double taxation of such income at the level of the parent company.
- (2) The benefits of Directive 2011/96/EU should not lead to situations of double non-taxation and, therefore, generate unintended tax benefits for groups of parent companies and subsidiaries of different Member States when compared to groups of companies of the same Member State.
- (3) For the purpose of avoiding situations of double non-taxation deriving from mismatches in the tax treatment of profit distributions between Member States, the Member State of the parent company and the Member State of its permanent establishment should not allow those companies to benefit from the tax exemption applied to received distributed profits, to the extent that such profits are deductible by the subsidiary of the parent company.
- (4) It is appropriate to update Part A of Annex I to Directive 2011/96/EU to include other forms of companies made subject to corporation tax in Poland and other forms of companies which have been introduced in the company law of Romania.
- (5) Directive 2011/96/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

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- (1) Opinion of 2 April 2014 (not yet published in the Official Journal).
- (2) Opinion of 25 March 2014 (not yet published in the Official Journal).
- (3) Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States ([OJ L 345, 29.12.2011, p. 8](#)).