



Council of the European Union
General Secretariat

Brussels, 07 February 2017

WK 1361/2017 INIT

LIMITE

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WORKING PAPER

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MEETING DOCUMENT

From:	Presidency
To:	Working Party on Tax Questions (Direct Taxation – CCTB)
Subject:	Common Corporate Tax Base (CCTB) proposal, chapters 1-5: article by article comparison document

In preparation for the WPTQ meeting on 16 February 2016, please find attached a document comparing the 2011 Commission proposal for a Common Consolidated Corporate Tax Base (CCCTB), the latest state of play in Council deliberations on the related Articles, and chapters I to V of the 2016 Commission proposal for a Common Corporate Tax Base (CCTB).

COMMON CORPORATE TAX BASE (CCTB) PROPOSAL, CHAPTERS 1-5:
ARTICLE BY ARTICLE COMPARISON DOCUMENT

2011 COM Proposal	Latest PRES compromise ¹ or ATAD 1 text ² where applicable	2016 COM proposal	Remarks
<p style="text-align: center;">CHAPTER I SCOPE</p>	<p style="text-align: center;">CHAPTER I SCOPE</p>	<p style="text-align: center;">CHAPTER I SUBJECT MATTER, SCOPE AND DEFINITIONS</p> <p style="text-align: center;"><i>Article 1</i> <i>Subject matter</i></p> <p>1. This Directive establishes a system of a common base for the taxation of certain companies and lays down rules for the calculation of that base.</p> <p>2. A company that applies the rules of this Directive shall cease to be subject to the national corporate tax law in respect of all matters regulated by this Directive, unless otherwise stated.</p>	

¹ doc. 15756/14 (Italian Presidency) and doc. 14544/15 (Luxembourg Presidency) in the case of Article 5

² <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L1164&from=EN>

<p style="text-align: center;"><i>Article 1</i> <i>Scope</i></p> <p>This Directive establishes a system for a common base for the taxation of certain companies and groups of companies and lays down rules relating to the calculation and use of that base.</p> <p style="text-align: center;"><i>Article 2</i> <i>Eligible companies</i></p> <p>1. This Directive shall apply to companies established under the laws of a Member State where both of the following conditions are met:</p> <ul style="list-style-type: none"> (a) the company takes one of the forms listed in Annex I; (b) the company is subject to one of the corporate taxes listed in Annex II or to a similar tax subsequently introduced. <p>2. This Directive shall apply to companies established under the laws of a third country where both of the following conditions are</p>	<p style="text-align: center;"><i>Article 1</i> <i>Scope</i></p> <p>This Directive establishes a system for a common base for the taxation of certain companies and groups of companies and lays down rules relating to the calculation and use of that base.</p> <p style="text-align: center;"><i>Article 2</i> <i>Eligible companies</i></p> <p>1. This Directive shall apply to companies established under the laws of a Member State where both of the following conditions are met:</p> <ul style="list-style-type: none"> (a) the company takes one of the forms listed in Annex I; (b) the company is subject to one of the corporate taxes listed in Annex II or to a similar tax subsequently introduced. <p>2. This Directive shall apply to companies established under the laws of a third country where both of the following conditions are met:</p>	<p style="text-align: center;"><i>Article 2</i> <i>Scope</i></p> <p>1. The rules of this Directive shall apply to a company that is established under the laws of a Member State, including its permanent establishments in other Member States, where the company meets all of the following conditions:</p> <ul style="list-style-type: none"> (a) it takes one of the company forms listed in Annex I; (b) it is subject to one of the corporate taxes listed in Annex II or to a similar tax subsequently introduced; (c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR 750 000 000 during the financial year preceding the relevant financial 	
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<p>met:</p> <p>(a) the company has a similar form to one of the forms listed in Annex I;</p> <p>(b) the company is subject to one of the corporate taxes listed in Annex II.</p> <p>3. The Commission may adopt delegated acts in accordance with Article 127 and subject to the conditions of Articles 128, 129 and 130 in order to amend Annexes I and II to take account of changes to the laws of the Member States concerning company forms and corporate taxes.</p> <p style="text-align: center;"><i>Article 3</i> <i>Eligible third country company forms</i></p> <p>1. The Commission shall adopt annually a list of third country company forms which shall be considered to meet the requirements laid down in Article 2(2)(a). That implementing act shall be</p>	<p>(a) the company has a similar form to one of the forms listed in Annex I;</p> <p>(b) the company is subject to one of the corporate taxes listed in Annex II.</p> <p>3. The Commission may adopt delegated acts in accordance with Article 127 and subject to the conditions of Articles 128, 129 and 130 in order to amend Annexes I and II to take account of changes to the laws of the Member States concerning company forms and corporate taxes.</p> <p style="text-align: center;"><i>Article 3</i> <i>Eligible third country company forms</i></p> <p>1. The Commission shall adopt annually a list of third country company forms which shall be considered to meet the requirements laid down in Article 2(2)(a). That implementing act shall be adopted in accordance with the examination procedure referred to in Article</p>	<p>year;</p> <p>(d) it qualifies as a parent company or qualifying subsidiary as referred to in Article 3 and/or has one or more permanent establishment in other Member States as referred to in Article 5.</p> <p>2. This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in one or more Member State where the company meets the conditions laid down in points (b) to (d) of paragraph 1.</p> <p>As regards whether the company meets the condition of point (a) in paragraph 1, it shall suffice that the company in a third country has a similar form to one of the company forms in Annex I. For the purposes of point (a) of paragraph 1, the</p>	
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<p>adopted in accordance with the examination procedure referred to in Article 131(2).</p> <p>2. The fact that a company form is not included in the list of third country company forms referred to in paragraph 1 shall not preclude the application of this Directive to that form.</p>	<p>131(2).</p> <p>2. The fact that a company form is not included in the list of third country company forms referred to in paragraph 1 shall not preclude the application of this Directive to that form.</p>	<p>Commission shall adopt annually a list of third country company forms that are similar to the company forms listed in Annex I. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 68(2). The fact that a third country company form is not included in that list shall not preclude the application of the rules of this Directive to that form.</p> <p>3. A company that meets the conditions of points (a) and (b) of paragraph 1, but does not meet the conditions of points (c) or (d) of that paragraph, may opt, including for its permanent establishments situated in other Member States, to apply the rules of this Directive for a period of five tax years. That period shall automatically be extended for successive terms of five tax years, unless there is a notice of termination as referred to in Article 65(3). The</p>	
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		<p>conditions under points (a) and (b) of paragraph 1 shall be met each time the extension takes place.</p> <p>4. The rules of this Directive shall not apply to a shipping company under a special tax regime. A shipping company under a special tax regime shall be taken into account for the purpose of determining the companies which are members of the same group as referred to in Article 3.</p> <p>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to amend Annexes I and II to take account of changes to the laws of the Member States concerning company forms and corporate taxes.</p>	
		<p><i>Article 3</i> <i>Parent company and qualifying subsidiaries</i></p> <p>1. A qualifying subsidiary means every immediate and lower-tier subsidiary</p>	

		<p>in which the parent company holds the following rights:</p> <p>(a) it has a right to exercise more than 50 % of the voting rights; and</p> <p>(b) it has an ownership right amounting to more than 75 % of the subsidiary's capital or owns more than 75 % of the rights giving entitlement to profit.</p> <p>2. For the purpose of calculating the thresholds referred to in paragraph 1 in relation to lower-tier subsidiaries, the following rules shall be applied:</p> <p>(c) once the voting-right threshold is reached in respect of a subsidiary, the parent company shall be considered to hold 100 % of these rights;</p> <p>(d) entitlement to profit and ownership of capital shall be calculated by multiplying the</p>	
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		<p>interests held, directly and indirectly, in subsidiaries at each tier. Ownership rights amounting to 75 % or less held directly or indirectly by the parent company, including rights in companies resident in a third country, shall also be taken into account in the calculation.</p>	
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<p>CHAPTER II FUNDAMENTAL CONCEPTS</p>	<p>CHAPTER II FUNDAMENTAL CONCEPTS</p>		
<p><i>Article 4 Definitions</i></p> <p>For the purposes of this Directive, the following definitions shall apply:</p> <p>(1) 'taxpayer' means a company which has opted to apply, the system provided for by this Directive;</p> <p>(2) 'single taxpayer' means a taxpayer not fulfilling the requirements for consolidation;</p> <p>(3) 'non-taxpayer' means a company which is ineligible to opt or has not opted to apply the system provided for by this Directive;</p> <p>(4) 'resident taxpayer' means a taxpayer which is resident for tax purposes in a Member State according to Article 6(3) and (4);</p> <p>(5) 'non-resident taxpayer' means a taxpayer which is</p>	<p><i>Article 4 Definitions</i></p> <p>For the purposes of this Directive, the following definitions shall apply:</p> <p>(1) 'taxpayer' means a company which has opted to apply, the system provided for by this Directive;</p> <p>(2) 'single taxpayer' means a taxpayer not fulfilling the requirements for consolidation;</p> <p>(3) 'non-taxpayer' means a company which is ineligible to opt or has not opted to apply the system provided for by this Directive;</p> <p>(4) 'resident taxpayer' means a taxpayer which is resident for tax purposes in a Member State according to Article 6(3) and (4);</p> <p>(5) 'non-resident taxpayer' means a taxpayer which is not resident for</p>	<p><i>Article 4 Definitions</i></p> <p>For the purposes of this Directive, the following definitions shall apply:</p> <p>(1) 'taxpayer' means a company that meets the conditions of Article 2(1) or (2), or has opted for applying the rules of this Directive in accordance with Article 2(3);</p> <p>(2) 'non-taxpayer' means a company that does not meet the conditions of Article 2(1) or (2) and has not opted for applying the rules of this Directive in accordance with Article 2(3);</p> <p>(3) 'resident taxpayer' means a taxpayer that is resident for tax purposes in a Member State;</p> <p>(4) 'non-resident taxpayer' means a taxpayer that for tax purposes is not resident in a Member State;</p> <p>(5) 'revenues' means proceeds</p>	

<p>not resident for tax purposes in a Member State according to Article 6(3) and (4);</p> <p>(6) 'principal taxpayer' means:</p> <p>(a) a resident taxpayer, where it forms a group with its qualifying subsidiaries, its permanent establishments located in other Member States or one or more permanent establishments of a qualifying subsidiary resident in a third country; or</p> <p>(b) the resident taxpayer designated by the group where it is composed only of two or more resident taxpayers which are immediate qualifying subsidiaries of the same parent company resident in a third country; or</p> <p>(c) a resident taxpayer which is the</p>	<p>tax purposes in a Member State according to Article 6(3) and (4);</p> <p>(6) 'principal taxpayer' means:</p> <p>(a) a resident taxpayer, where it forms a group with its qualifying subsidiaries, its permanent establishments located in other Member States or one or more permanent establishments of a qualifying subsidiary resident in a third country; or</p> <p>(b) the resident taxpayer designated by the group where it is composed only of two or more resident taxpayers which are immediate qualifying subsidiaries of the same parent company resident in a third country; or</p> <p>(c) a resident taxpayer which is the qualifying</p>	<p>of sales and of any other transactions, net of value added tax and other taxes and duties collected on behalf of government agencies, whether of a monetary or non-monetary nature, including proceeds from disposals of assets and rights, interest, dividends and other profits distributions, proceeds of liquidations, royalties, subsidies and grants, gifts received, compensations and ex-gratia payments. Revenues shall also include non-monetary gifts made by a taxpayer. Revenues shall not include equity raised by the taxpayer or debt repaid to it;</p> <p>(6) 'expenses' means decreases in net equity of the company during the accounting period in the form of outflows or a reduction in the value of assets or in the form of a recognition or increase in the value of liabilities, other than those relating to monetary or non-monetary</p>	
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<p>qualifying subsidiary of a parent company resident in a third country, where that resident taxpayer forms a group solely with one or more permanent establishments of its parent; or</p> <p>(d) the permanent establishment designated by a non-resident taxpayer which forms a group solely in respect of its permanent establishments located in two or more Member States.</p> <p>(7) 'group member' means any taxpayer belonging to the same group, as defined in Articles 54 and 55. Where a taxpayer maintains one or more permanent establishments in a Member State other than that in which its central management and control is located, each permanent establishment shall be treated as a group</p>	<p>subsidiary of a parent company resident in a third country, where that resident taxpayer forms a group solely with one or more permanent establishments of its parent; or</p> <p>(d) the permanent establishment designated by a non-resident taxpayer which forms a group solely in respect of its permanent establishments located in two or more Member States.</p> <p>(7) 'group member' means any taxpayer belonging to the same group, as defined in Articles 54 and 55. Where a taxpayer maintains one or more permanent establishments in a Member State other than that in which its central management and control is located, each permanent establishment shall be treated as a group member;</p>	<p>distributions to shareholders or equity owners in their capacity as such.</p> <p>(7) 'tax year' means a calendar year or any other appropriate period for tax purposes;</p> <p>(8) 'profit' means an excess of revenues over deductible expenses and other deductible items in a tax year;</p> <p>(9) 'loss' means an excess of deductible expenses and other deductible items over revenues in a tax year;</p> <p>(10) 'consolidated group for financial accounting purposes' means all entities that are fully included in consolidated financial statements drawn up in accordance with the International Financial Reporting Standards or a national financial reporting system;</p> <p>(11) 'research and development' means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations</p>	
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<p>member;</p> <p>(8) 'revenues' means proceeds of sales and of any other transactions, net of value added tax and other taxes and duties collected on behalf of government agencies, whether of a monetary or non-monetary nature, including proceeds from disposal of assets and rights, interest, dividends and other profits distributions, proceeds of liquidation, royalties, subsidies and grants, gifts received, compensation and ex-gratia payments. Revenues shall also include non-monetary gifts made by a taxpayer. Revenues shall not include equity raised by the taxpayer or debt repaid to it;</p> <p>(9) 'profit' means an excess of revenues over deductible expenses and other deductible items in a tax year;</p> <p>(10) 'loss' means an excess of deductible expenses and other deductible items over revenues in a tax</p>	<p>(8) 'revenues' means proceeds of sales and of any other transactions, net of value added tax and other taxes and duties collected on behalf of government agencies, whether of a monetary or non-monetary nature, including proceeds from disposal of assets and rights, interest, dividends and other profits distributions, proceeds of liquidation, royalties, subsidies and grants, gifts received, compensation and ex-gratia payments. Revenues shall also include non-monetary gifts made by a taxpayer. Revenues shall not include equity raised by the taxpayer or debt repaid to it;</p> <p>(9) 'profit' means an excess of revenues over deductible expenses and other deductible items in a tax year;</p> <p>(10) 'loss' means an excess of deductible expenses and other deductible items over revenues in a tax year;</p>	<p>of phenomena and observable facts, without any particular application or use in view (basic research); original investigation undertaken in order to acquire new knowledge but directed primarily towards a specific, practical aim or objective (applied research); systematic work, drawing on knowledge gained from research and practical experience and producing additional knowledge, which is directed to producing new products or processes or to improving existing products or processes (experimental development);</p> <p>(12) 'borrowing costs' means interest expenses on all forms of debt, other costs economically equivalent to interest and expenses incurred in connection with the raising of finance, as defined in national law, including payments under profit participating loans, imputed interest on</p>	
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<p>year;</p> <p>(11) 'consolidated tax base' means the result of adding up the tax bases of all group members as calculated in accordance with Article 10;</p> <p>(12) 'apportioned share' means the portion of the consolidated tax base of a group which is allocated to a group member by application of the formula set out in Articles 86-102;</p> <p>(13) 'value for tax purposes' of a fixed asset or asset pool means the depreciation base less total depreciation deducted to date;</p> <p>(14) 'fixed assets' means all tangible assets acquired for value or created by the taxpayer and all intangible assets acquired for value where they are capable of being valued independently and are used in the business in the production, maintenance or securing of income for more than 12 months, except where the cost of their acquisition, construction or</p>	<p>(11) 'consolidated tax base' means the result of adding up the tax bases of all group members as calculated in accordance with Article 10;</p> <p>(12) 'apportioned share' means the portion of the consolidated tax base of a group which is allocated to a group member by application of the formula set out in Articles 86-102;</p> <p>(13) 'value for tax purposes' of a fixed asset or asset pool means the depreciation base less total depreciation deducted to date;</p> <p>(14) 'fixed assets' means all tangible assets acquired for value or created by the taxpayer and all intangible assets acquired for value where they are capable of being valued independently and are used in the business in the production, maintenance or securing of income for more than 12 months, except where the cost of their acquisition, construction or improvement are less than EUR 1,000. Fixed assets shall also include financial assets;</p>	<p>convertible bonds and zero coupon bonds, payments under alternative financing arrangements, the finance cost elements of finance lease payments, capitalised interest included in the balance sheet value of a related asset, the amortisation of capitalised interest, amounts measured by reference to a funding return under transfer pricing rules, notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings, the defined yield on net equity increases as referred to in Article 11 of this Directive, certain foreign exchange gains and losses on borrowings and instruments connected with the raising of finance, guarantee fees for financing arrangements, arrangement fees and similar costs related to the borrowing of funds;</p> <p>(13) 'exceeding borrowing costs' means the amount by</p>	
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<p>improvement are less than EUR 1,000. Fixed assets shall also include financial assets;</p> <p>(15) 'financial assets' means shares in affiliated undertakings, loans to affiliated undertakings, participating interests, loans to undertakings with which the company is linked by virtue of participating interests, investments held as fixed assets, other loans, and own shares to the extent that national law permits their being shown in the balance sheet;</p> <p>(16) 'long-life fixed tangible assets' means fixed tangible assets' with a useful life of 15 years or more. Buildings, aircraft and ships shall be deemed to be long-life fixed tangible assets;</p> <p>(17) 'second-hand assets' means fixed assets with a useful life that had partly been exhausted when acquired and which are suitable for further use in their current state or after repair;</p>	<p>(15) 'financial assets' means shares in affiliated undertakings, loans to affiliated undertakings, participating interests, loans to undertakings with which the company is linked by virtue of participating interests, investments held as fixed assets, other loans, and own shares to the extent that national law permits their being shown in the balance sheet;</p> <p>(16) 'long-life fixed tangible assets' means fixed tangible assets' with a useful life of 15 years or more. Buildings, aircraft and ships shall be deemed to be long-life fixed tangible assets;</p> <p>(17) 'second-hand assets' means fixed assets with a useful life that had partly been exhausted when acquired and which are suitable for further use in their current state or after repair;</p>	<p>which the deductible borrowing costs of a taxpayer exceed taxable interest revenues and other taxable revenues that the taxpayer receives and which are economically equivalent to interest revenues;</p> <p>(14) 'transfer of assets' means an operation whereby a Member State loses the right to tax the transferred assets, whilst the assets remain under the legal or economic ownership of the same taxpayer;</p> <p>(15) 'transfer of tax residence' means an operation whereby a taxpayer ceases to be resident for tax purposes in a Member State, whilst acquiring tax residence in another Member State or third country;</p> <p>(16) 'transfer of a business carried on by a permanent establishment' means an operation whereby a taxpayer ceases to have taxable presence in a Member State whilst acquiring such presence in</p>	
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<p>(18) 'improvement costs' means any additional expenditure on a fixed asset that materially increases the capacity of the asset or materially improves its functioning or represents more than 10% of the initial depreciation base of the asset;</p>	<p>(18) 'improvement costs' means any additional expenditure on a fixed asset that materially increases the capacity of the asset or materially improves its functioning or represents more than 10% of the initial depreciation base of the asset;</p>	<p>another Member State or third country without becoming resident for tax purposes in that Member State or third country;]</p>	
<p>(19) 'stocks and work-in-progress' means assets held for sale, in the process of production for sale or in the form of materials or supplies to be consumed in the production process or in the rendering of services;</p>	<p>(19) 'stocks and work-in-progress' means assets held for sale, in the process of production for sale or in the form of materials or supplies to be consumed in the production process or in the rendering of services;</p>	<p>(17) 'value for tax purposes' means the depreciation base of a fixed asset or asset pool, less total depreciation deducted;</p>	
<p>(20) 'economic owner' means the person who has substantially all the benefits and risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;</p>	<p>(20) 'economic owner' means the person who has substantially all the benefits and risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;</p>	<p>(18) 'market value' means the amount for which an asset can be exchanged or mutual obligations can be settled between willing unrelated parties in a direct transaction.</p>	
<p>(21) 'competent authority'</p>	<p>(21) 'competent authority' means the</p>	<p>(19) 'fixed assets' means tangible assets acquired for value or created by the taxpayer and intangible assets acquired for value that are capable of being valued independently and that are used in the business for producing, maintaining or securing income for more than 12 months, except where their acquisition or construction cost is less than EUR 1,000. Fixed assets shall also include financial assets, with the exception</p>	

	means the authority designated by each Member State to administer all matters related to the implementation of this Directive;	authority designated by each Member State to administer all matters related to the implementation of this Directive;		
(22)	'principal tax authority' means the competent authority of the Member State in which the principal taxpayer is resident or, if it is a permanent establishment of a non-resident taxpayer, is situated;	(22) 'principal tax authority' means the competent authority of the Member State in which the principal taxpayer is resident or, if it is a permanent establishment of a nonresident taxpayer, is situated;	(20)	of financial assets held for trading in accordance with to Article 21; 'financial assets' means shares in, and loans to, associated enterprises as referred to in Article 56 of this Directive, participating interests as defined in Article 2(2) of Directive 2013/34/EU of the European Parliament and of the Council ³ , loans to undertakings with which the taxpayer is linked by virtue of participating interests, investments held as fixed assets, other loans, and own shares to the extent that national law permits their being shown in the balance sheet;
(23)	'audit' means inquiries, inspections or examinations of any kind conducted by a competent authority for the purpose of verifying the compliance of a taxpayer with this Directive.	(23) 'audit' means inquiries, inspections or examinations of any kind conducted by a competent authority for the purpose of verifying the compliance of a taxpayer with this Directive. +++ ATAD 1 definitions: (1) 'borrowing costs' means interest expenses on all forms of debt, other costs economically equivalent to	(21)	'acquisition or construction cost' means the amount of cash or cash equivalents paid or payable or the value of other assets given in exchange for or consumed to acquire a fixed tangible asset at the time of its acquisition or

³ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

	<p>interest and expenses incurred in connection with the raising of finance as defined in national law, including, without being limited to, payments under profit participating loans, imputed interest on instruments such as convertible bonds and zero coupon bonds, amounts under alternative financing arrangements, such as Islamic finance, the finance cost element of finance lease payments, capitalised interest included in the balance sheet value of a related asset, or the amortisation of capitalised interest, amounts measured by reference to a funding return under transfer pricing rules where applicable, notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings, certain foreign exchange gains and losses on borrowings and instruments connected with the raising of finance, guarantee fees for financing arrangements, arrangement fees and similar costs related to the borrowing of funds;</p> <p>(2) 'exceeding borrowing costs' means the amount by which the deductible borrowing costs of a taxpayer exceed taxable interest</p>	<p>construction.</p> <p>(22) 'long-life fixed tangible assets' means fixed tangible assets with a useful life of 15 years or more. Buildings, aircraft and ships shall be considered to be long-life fixed tangible assets;</p> <p>(23) 'medium-life fixed tangible assets' means fixed tangible assets that do not qualify as long-life fixed tangible assets under point 22 and have a useful life of eight years or more.</p> <p>(24) 'second-hand assets' means fixed assets with a useful life that was partly exhausted when they were acquired and that are suitable for further use in their current state or after repair;</p> <p>(25) 'useful life' means the period for which an asset is expected to be available for use or the number of production or similar units that a taxpayer expected to obtain from the asset ;</p> <p>(26) 'improvement costs' means any additional expenditure on a fixed asset that</p>	
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	<p>revenues and other economically equivalent taxable revenues that the taxpayer receives according to national law;</p> <p>(6) 'transfer of assets' means an operation whereby a Member State loses the right to tax the transferred assets, whilst the assets remain under the legal or economic ownership of the same taxpayer;</p> <p>(7) 'transfer of tax residence' means an operation whereby a taxpayer ceases to be resident for tax purposes in a Member State, whilst acquiring tax residence in another Member State or third country;</p> <p>(8) 'transfer of a business carried on by a permanent establishment' means an operation whereby a taxpayer ceases to have taxable presence in a Member State whilst acquiring such presence in another Member State or third country without becoming resident for tax purposes in that Member State or third country;</p> <p>(5) 'financial undertaking' means any of the following entities:</p>	<p>substantially increases the capacity of the asset or substantially improves its functioning or represents more than 10 percent of the initial depreciation base of the asset;</p> <p>(27) 'stocks and work-in-progress' means assets for sale or in the process of production for sale or in the form of materials or supplies to be consumed in the production process or in the rendering of services;</p> <p>(28) 'economic owner' means the person who receives substantially all the benefits and bears all the risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;</p> <p>(29) 'financial undertaking' means any of the following entities:</p>	
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	<p>(a) a credit institution or an investment firm as defined in point (1) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council (5) or an alternative investment fund manager (AIFM) as defined in point (b) of Article 4(1) of Directive 2011/61/EU of the European Parliament and of the Council (6) or an undertaking for collective investment in transferable securities (UCITS) management company as defined in point (b) of Article 2(1) of Directive 2009/65/EC of the European Parliament and of the Council (7);</p> <p>(b) an insurance undertaking as defined in point (1) of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council (8);</p>	<p>(a) a credit institution or an investment firm as defined in point (1) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council⁴, an AIFM as defined in point (b) of Article 4(1) of Directive 2011/61/EU of the European Parliament and of the Council⁵, or a management company as defined in point (b) of Article 2(1) of Directive 2009/65/EC of the European Parliament and of the Council⁶;</p> <p>(b) an insurance undertaking as defined in point (1) of Article 13 of Directive</p>	
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⁴ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

⁵ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

⁶ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

	<p>(c) a reinsurance undertaking as defined in point (4) of Article 13 of Directive 2009/138/EC;</p> <p>(d) an institution for occupational retirement provision falling within the scope of Directive 2003/41/EC of the European Parliament and of the Council (9), unless a Member State has chosen not to apply that Directive in whole or in part to that institution in accordance with Article 5 of that Directive or the delegate of an institution for occupational retirement provision as referred to in Article 19(1) of that Directive;</p>	<p>2009/138/EC of the European Parliament and of the Council⁷;</p> <p>(c) a reinsurance undertaking as defined in point (4) of Article 13 of Directive 2009/138/EC;</p> <p>(d) an institution for occupational retirement provision as defined in point (a) of Article 6 of Directive 2003/41/EC of the European Parliament and of the Council⁸, unless a Member State has chosen not to apply that Directive in whole or in part to that institution in accordance with Article 5 of that Directive, or the delegate of an institution for occupational</p>	
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⁷ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

⁸ Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003, p. 10).

	<p>(e) pension institutions operating pension schemes which are considered to be social security schemes covered by Regulation (EC) No 883/2004 of the European Parliament and of the Council (10) and Regulation (EC) No 987/2009 of the European Parliament and of the Council (11) as well as any legal entity set up for the purpose of investment of such schemes;</p> <p>(f) an alternative investment fund (AIF) managed by an AIFM as defined in point (b) of Article 4(1) of Directive 2011/61/EU or an AIF supervised under the applicable national law;</p>	<p>retirement provision as referred to in Article 19(1) of Directive 2003/41/EC;</p> <p>(e) a pension institution operating pension schemes which qualify as social security schemes covered by Regulation (EC) No 883/2004 of the European Parliament and of the Council⁹ and by Regulation (EC) No 987/2009 of the European Parliament and of the Council¹⁰, as well as any legal entity set up for the purpose of investment in such pension schemes;</p> <p>(f) an AIF as defined in point (a) of Article 4(1) of Directive 2011/61/EU, which is managed by an AIFM as defined in point (b) of Article</p>	
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⁹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 200, 7.6.2004, p. 1).

¹⁰ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 on laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

	<p>(g) UCITS in the meaning of Article 1(2) of Directive 2009/65/EC;</p> <p>(h) a central counterparty as defined in point (1) of Article 2 of Regulation (EU) No 648/2012 of the European Parliament and of the Council (12);</p> <p>(i) a central securities depository as defined in point (1) of Article 2(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council (13).</p> <p>(9) 'hybrid mismatch' means a situation between a taxpayer in one</p>	<p>4(1) of Directive 2011/61/EU, or an AIF supervised under national law;</p> <p>(g) a UCITS as defined in Article 1(2) of Directive 2009/65/EC;</p> <p>(h) a CCP as defined in point (1) of Article 2 of Regulation (EU) No 648/2012 of the European Parliament and of the Council¹¹;</p> <p>(i) a central securities depository as defined in point (1) of Article 2(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council¹²;</p> <p>(30) 'entity' means any legal arrangement to carry on business through either a company or a structure that is transparent for tax purposes;</p> <p>(31) 'hybrid mismatch' means a situation between a</p>	
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¹¹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

¹² Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

	<p>Member State and an associated enterprise in another Member State or a structured arrangement between parties in Member States where the following outcome is attributable to differences in the legal characterisation of a financial instrument or entity:</p> <p>(a) a deduction of the same payment, expenses or losses occurs both in the Member State in which the payment has its source, the expenses are incurred or the losses are suffered and in another Member State ('double deduction'); or</p> <p>(b) there is a deduction of a payment in the Member State in which the payment has its source without a corresponding inclusion for tax purposes of the same payment in the other Member State ('deduction without inclusion').</p>	<p>taxpayer and an associated enterprise or a structured arrangement between parties in different tax jurisdictions where any of the following outcomes is attributable to differences in the legal characterisation of a financial instrument or entity, or in the treatment of a commercial presence as a permanent establishment:</p> <p>(a) a deduction of the same payment, expenses or losses from the taxable base occurs both in the jurisdiction in which the payment has its source, the expenses are incurred or the losses are suffered and in the other jurisdiction ('double deduction');</p> <p>(b) a deduction of a payment from the taxable base in the jurisdiction in which the payment has its source without a corresponding</p>	
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		<p>inclusion for tax purposes of the same payment in the other jurisdiction ('deduction without inclusion');</p> <p>(c) in case of differences in the treatment of a commercial presence as a permanent establishment, non-taxation of income which has its source in a jurisdiction without a corresponding inclusion for tax purposes of the same income in the other jurisdiction ('non-taxation without inclusion').</p> <p>A hybrid mismatch only arises to the extent that the same payment deducted, expenses incurred or losses suffered in two jurisdictions exceed the amount of income that is included in both jurisdictions and which can be attributed to the same source.</p> <p>A hybrid mismatch also</p>	
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		<p>includes the transfer of a financial instrument under a structured arrangement involving a taxpayer where the underlying return on the transferred financial instrument is treated for tax purposes as derived simultaneously by more than one of the parties to the arrangement, who are resident for tax purposes in different jurisdictions, giving rise to any of the following outcomes:</p> <p>(d) a deduction of a payment connected with the underlying return without a corresponding inclusion for tax purposes of such payment, unless the underlying return is included in the taxable income of one the parties involved;</p> <p>(e) a relief for tax withheld at source on a payment derived from the transferred financial instrument to more than one of</p>	
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		<p>the parties involved;</p> <p>(32) 'structured arrangement' means an arrangement involving a hybrid mismatch where the mismatch is priced into the terms of the arrangement or an arrangement that has been designed to produce a hybrid mismatch outcome, unless the taxpayer or an associated enterprise could not reasonably have been expected to be aware of the hybrid mismatch and did not share in the value of the tax benefit resulting from the hybrid mismatch;</p> <p>(33) 'national corporate tax law' means the statute of a Member State which provides for one of the taxes listed in Annex II.</p> <p>The Commission may adopt delegated acts in accordance with Article 66 in order to lay down definitions of more concepts.</p>	
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<p style="text-align: center;"><i>Article 5</i> <i>Permanent establishment</i></p> <p>1. A taxpayer shall be considered to have a 'permanent establishment' in a State other than the State in which its central management and control is located when it has a fixed place in that other State through which the business is wholly or partly carried on, including in particular:</p> <ul style="list-style-type: none"> (a) a place of management; (b) a branch; (c) an office; (d) a factory; (e) a workshop; (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 	<p style="text-align: center;"><i>[Article 6</i> <i>Artificial avoidance of permanent establishment status</i>¹³</p> <p>1. The following shall not be deemed to give rise to a permanent establishment:</p> <ul style="list-style-type: none"> a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the taxpayer; b) the maintenance of a stock of goods or merchandise belonging to the taxpayer solely for the purpose of storage, display or delivery; c) the maintenance of a stock of goods or merchandise belonging to the taxpayer solely for the purpose of processing by another person; d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the taxpayer; e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the taxpayer, any other activity; 	<p style="text-align: center;"><i>Article 5</i> <i>Permanent establishment in a Member State of a taxpayer who is resident for tax purposes in the Union</i></p> <p>1. A taxpayer shall be considered to have a permanent establishment in a Member State other than the Member State in which it is resident for tax purposes when it has a fixed place in that other Member State through which it carries on its business, wholly or partly, including in particular:</p> <ul style="list-style-type: none"> (a) a place of management; (b) a branch; (c) an office; (d) a factory; (e) a workshop; (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. 	
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¹³ Extracted from LU PRES consolidated text: doc. 14544/15

<p>2. A building site or construction or installation project shall constitute a permanent establishment only if it lasts more than twelve months.</p>	<p>f) the maintenance of a fixed place of business solely for any combination of activities mentioned in points (a) to (e); or, in the case of point f, the overall activity of the fixed place of business is of auxiliary or preparatory character.</p> <p>2. A fixed place of business that is used or maintained by a taxpayer shall be deemed to give rise to a permanent establishment if the same taxpayer or a closely related person carries on business activities at the same place or at another place in the same State and</p> <p>a) that place or other place constitutes a permanent establishment for the taxpayer or the closely related person under the provisions of this Article, or</p> <p>b) the overall activity resulting from the combination of the activities carried on by the taxpayer and the closely related person at the same place, or by the same taxpayer or closely related persons at the two places, is not of a preparatory or auxiliary character,</p> <p>provided that the business activities</p>	<p>2. A building site or construction or installation project shall constitute a permanent establishment only if it lasts more than twelve months.</p>	
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	<p>carried on by the taxpayer and the closely related person at the same place, or by the same taxpayer or closely related persons at the two places, constitute complementary functions that are part of a cohesive business operation.</p>		
<p>3. Notwithstanding paragraphs 1 and 2, the following shall not be deemed to give rise to a permanent establishment:</p> <p>a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the taxpayer;</p> <p>b) the maintenance of a stock of goods or merchandise belonging to the taxpayer solely for the purpose of storage, display or delivery;</p> <p>c) the maintenance of a stock of goods or merchandise belonging to the taxpayer solely for the purpose of processing by another person;</p> <p>d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the taxpayer;</p> <p>e) the maintenance of a fixed place of business solely for the</p>	<p>3. Where a person is acting in a State on behalf of a taxpayer and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the taxpayer, and these contracts are:</p> <p>a) in the name of the taxpayer, or</p> <p>b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that taxpayer or that the taxpayer has the right to use, or</p> <p>c) for the provision of services by that taxpayer,</p> <p>that taxpayer shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the taxpayer, unless the activities of such person are of auxiliary or preparatory character so that, if exercised through a fixed place of</p>	<p>3. The term 'permanent establishment' shall not include the following activities, provided that such activities are or, the overall activity of the fixed place of business in the case of point (f) is, of auxiliary or preparatory character:</p> <p>(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the taxpayer;</p> <p>(b) the maintenance of a stock of goods or merchandise belonging to the taxpayer for the sole purpose of storage, display or delivery;</p> <p>(c) the maintenance of a</p>	

<p>purpose of carrying on, for the taxpayer, any other activity of a preparatory or auxiliary character;</p> <p>f) the maintenance of a fixed place of business solely for any combination of activities mentioned in points (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.</p>	<p>business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.</p>	<p>stock of goods or merchandise belonging to the taxpayer for the sole purpose of being processed by another person;</p> <p>(d) the maintenance of a fixed place of business for the sole purpose of purchasing goods or merchandise for the taxpayer or for collecting information for the taxpayer;</p> <p>(e) the maintenance of a fixed place of business for the sole purpose of carrying on any other activity for the taxpayer;</p> <p>(f) the maintenance of a fixed place of business for the sole purpose of any combination of activities mentioned in points (a) to (e);</p>	
<p>4. Notwithstanding paragraph 1, where a person - other than an agent of an independent status to whom paragraph 5 applies - is</p>	<p>4. Paragraph 3 shall not apply where the person acting in a State on behalf of a taxpayer of the other State carries on business in the first-</p>	<p>4. Without prejudice to paragraph 5, where a person is acting in a Member State on behalf of</p>	

<p>acting on behalf of a taxpayer and has, and habitually exercises, in a State an authority to conclude contracts in the name of the taxpayer, that taxpayer shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the taxpayer, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.</p>	<p>mentioned State as an independent agent and acts for the taxpayer in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more taxpayers to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such taxpayer.]</p>	<p>a taxpayer and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the taxpayer, the taxpayer shall be deemed to have a permanent establishment in that Member State in respect of the activities undertaken by that person for the taxpayer.</p> <p>The contracts under the first subparagraph shall be concluded:</p> <ul style="list-style-type: none"> (a) in the name of the taxpayer, or (b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that taxpayer or that the taxpayer has the right to use, or (c) for the provision of services by the taxpayer. <p>The first and second subparagraphs shall not</p>	
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<p>5. A taxpayer shall not be deemed to have a permanent establishment in a State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.</p>		<p>apply if the activities of that person are auxiliary or preparatory as referred to in paragraph 3 so that, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.</p> <p>5.</p> <p>(a) Paragraph 4 shall not apply where the person acting in a Member State on behalf of a taxpayer carries on business in that Member State as an independent agent and acts for the taxpayer in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more taxpayers to which it is 'closely related', that person shall not be considered to be an independent agent</p>	
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<p>6. The fact that a taxpayer which is a resident of a State controls or is controlled by a taxpayer which is a resident of another State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either taxpayer a permanent establishment of the other.</p>		<p>within the meaning of this paragraph with respect to these taxpayers.</p> <p>(b) For the purposes of this Article, a person is 'closely related' to a taxpayer if one possesses, directly or indirectly, a right to exercise more than 50 % of the voting rights in the other or an ownership right amounting to more than 50 % of the other's capital or more than 50 % of the rights giving entitlement to profit.</p> <p>6. The fact that a taxpayer who is resident for tax purposes in a Member State controls, or is being controlled by, a taxpayer who is tax resident in another Member State or carries on business in that other Member State (whether through a permanent establishment or otherwise), shall not of itself mean that any of the taxpayers is a permanent establishment of the other.</p>	
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<p style="text-align: center;">CHAPTER IV CALCULATION OF THE TAX BASE</p> <p style="text-align: center;"><i>Article 9</i> <i>General principles</i></p> <ol style="list-style-type: none"> 1. In computing the tax base, profits and losses shall be recognised only when realised. 2. Transactions and taxable events shall be measured individually. 3. The calculation of the tax base shall be carried out in a consistent manner unless exceptional circumstances justify a change. 4. The tax base shall be determined for each tax year unless otherwise provided. A tax year shall be any twelve-month period, unless otherwise provided. 	<p style="text-align: center;">CHAPTER IV CALCULATION OF THE TAX BASE</p> <p style="text-align: center;"><i>Article 9</i> <i>General principles</i></p> <ol style="list-style-type: none"> 1. In computing the tax base, profits and losses shall be recognised only when realised. 1. 2. Transactions and taxable events shall be measured individually. 2. 3. The calculation of the tax base shall be carried out in a consistent manner unless exceptional circumstances justify a change. 3. 4. The tax base shall be determined for each tax year unless otherwise provided. A tax year shall be any twelve-month period, [unless otherwise provided]. 	<p style="text-align: center;">CHAPTER II CALCULATION OF THE TAX BASE</p> <p style="text-align: center;"><i>Article 6</i> <i>General principles</i></p> <ol style="list-style-type: none"> 1. In calculating the tax base, profits and losses shall be recognised only when realised. 2. Transactions and taxable events shall be measured individually. 3. The calculation of the tax base shall be carried out in a consistent manner unless exceptional circumstances justify a change. 4. The tax base shall be calculated for each tax year unless otherwise provided. A tax year shall be any twelve-month period, unless otherwise provided. 	
<p style="text-align: center;"><i>Article 10</i> <i>Elements of the tax base</i></p> <p>The tax base shall be calculated as revenues less exempt revenues, deductible expenses and other deductible items.</p>	<p style="text-align: center;"><i>Article 10</i> <i>Elements of the tax base</i></p> <p>The tax base shall be calculated as revenues less exempt revenues, deductible expenses and other deductible items.</p>	<p style="text-align: center;"><i>Article 7</i> <i>Elements of the tax base</i></p> <p>The tax base shall be calculated as revenues less exempt revenues, deductible expenses and other deductible items.</p>	

<p style="text-align: center;"><i>Article 11</i> <i>Exempt revenues</i></p> <p>The following shall be exempt from corporate tax:</p> <ul style="list-style-type: none"> (a) subsidies directly linked to the acquisition, construction or improvement of fixed assets, subject to depreciation in accordance with Articles 32 to 42; (b) proceeds from the disposal of pooled assets referred to in Article 39(2), including the market value of non-monetary gifts; (c) received profit distributions; (d) proceeds from a disposal of shares; (e) income of a permanent establishment in a third country. 	<p style="text-align: center;"><i>Article 11</i> <i>Exempt revenues</i></p> <p>The following shall be exempt from corporate tax:</p> <ul style="list-style-type: none"> (a) subsidies directly linked to the acquisition, construction or improvement of fixed assets, subject to depreciation in accordance with Articles 32 to 42; (b) proceeds from the disposal of pooled assets referred to in Article 39(2), including the market value of non-monetary gifts; (c) received profit distributions, <u>provided that the taxpayer has maintained a minimum holding of 10% in the capital or of the voting rights of the distributing company for twelve months. This shall not apply to profit distributions from shares held for trading in accordance with paragraph 4 of Article 23 and profit distributions received by life insurance undertakings in accordance with Article 30 (c);</u> 	<p style="text-align: center;"><i>Article 8</i> <i>Exempt revenues</i></p> <p>The following revenues shall not be included in the tax base:</p> <ul style="list-style-type: none"> (a) subsidies directly linked to the acquisition, construction or improvement of fixed assets that are subject to depreciation in accordance with Articles 31 to 41; (b) proceeds from the disposal of pooled assets referred to in Article 37(2), including the market value of non-monetary gifts; (c) proceeds from a disposal of shares, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the company during the 12 months preceding the disposal, with the exception of proceeds resulting from a disposal of shares held for trading as referred to in Article 21(3) and of shares held by life insurance undertakings in accordance with point (b) of 	
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	<p>(d) proceeds from a disposal of shares <u>provided that the taxpayer has maintained a minimum holding of 10% in the capital or of the voting rights of the company during the twelve months preceding the disposal. This shall not apply to disposals of shares held for trading in accordance with paragraph 3 of Article 23 and of shares held by life insurance undertakings in accordance with Article 30 (b);</u></p> <p>(e) income of a permanent establishment in a third country.</p>	<p>(d) Article 28; received profit distributions, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the distributing company for 12 consecutive months, with the exception of profit distributions from shares held for trading as referred to in Article 21(4) and profit distributions received by life insurance undertakings in accordance with point (c) of Article 28;</p> <p>(e) income of a permanent establishment received by the taxpayer in the Member State where the taxpayer is resident for tax purposes.</p>	
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<p style="text-align: center;"><i>Article 12</i> <i>Deductible expenses</i></p> <p>Deductible expenses shall include all costs of sales and expenses net of deductible value added tax incurred by the taxpayer with a view to obtaining or securing income, including costs of research and development and costs incurred in raising equity or debt for the purposes of the business. Deductible expenses shall also include gifts to charitable bodies as defined in Article 16 which are established in a Member State or in a third country which applies an agreement on the exchange of information on request comparable to the provisions of Directive 2011/16/EU. The maximum deductible expense for monetary gifts or donations to charitable bodies shall be 0.5% of revenues in the tax year.</p> <p style="text-align: center;"><i>Article 16</i> <i>Charitable bodies</i></p> <p>A body shall qualify as charitable where the following conditions are met:</p> <p>(a) it has legal personality and is a recognised charity under the law of the State</p>	<p style="text-align: center;"><i>Article 12</i> <i>Deductible expenses</i></p> <p><u>Expenses are deductible only to the extent that they were incurred in the direct business interest of the taxpayer.</u></p> <p>Such deductible expenses shall include all costs of sales and expenses net of deductible value added tax incurred by the taxpayer with a view to obtaining or securing income, including costs of research and development and costs incurred in raising [equity or] debt for the purposes of the business.</p> <p>Deductible expenses shall also include gifts to charitable bodies as defined in Article 16 which are established in a Member State or in a third country which applies an agreement on the exchange of information on request comparable to the provisions of Directive 2011/16/EU. The maximum deductible expense for monetary gifts or donations to charitable bodies shall be 0.5% of revenues in the tax year.</p> <p><u>Member States may provide for the deduction of gifts and</u></p>	<p style="text-align: center;"><i>Article 9</i> <i>Deductible expenses</i></p> <ol style="list-style-type: none"> Expenses shall be deductible only to the extent that they are incurred in the direct business interest of the taxpayer. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including costs for research and development and costs incurred in raising equity or debt for the purposes of the business. In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. 	
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<p>(b) in which it is established; its sole or main purpose and activity is one of public benefit; an educational, social, medical, cultural, scientific, philanthropic, religious, environmental or sportive purpose shall be considered to be of public benefit provided that it is of general interest;</p> <p>(c) its assets are irrevocably dedicated to the furtherance of its purpose;</p> <p>(d) it is subject to requirements for the disclosure of information regarding its accounts and its activities;</p> <p>(e) it is not a political party as defined by the Member State in which it is established.</p>	<p><u>donations to charitable bodies. In the case of a group, any such deduction shall be applied to the apportioned share of the group members resident or situated in that Member State.</u></p>	<p>To the extent that costs for research and development reach beyond EUR 20 000 000, the taxpayer may deduct 25% of the exceeding amount.</p> <p>By way of derogation from the first subparagraph, the taxpayer may deduct an extra 100% of its costs for research and development up to EUR 20 000 000 where that taxpayer meets all of the following conditions:</p> <p>(a) it is an unlisted enterprise with fewer than 50 employees and an annual turnover and/or annual balance sheet total that does not exceed EUR 10 000 000;</p> <p>(b) it has not been registered for longer than five years. If the taxpayer is not subject to registration, the period of five years may be taken to</p>	
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<p><i>Article 13</i> <i>Other deductible items</i></p> <p>A proportional deduction may be made in respect of the depreciation of fixed assets in accordance with Articles 32 to 42.</p>	<p><i>Article 13</i> <i>Other deductible items</i></p> <p>A proportional deduction may be made in respect of the depreciation of fixed assets in accordance with Articles 32 to 42.</p>	<p><i>Article 10</i> <i>Other deductible items</i></p> <p>A deduction shall be made in respect of the depreciation of fixed assets referred to in Articles 30 to 40.</p>	
		<p><i>Article 11</i> <i>Allowance for growth and investment ('AGI')</i></p> <p>1. For the purposes of this Article, 'AGI equity base' means, in a given tax year, the difference between the equity of a taxpayer and the tax value of its participation in the capital</p>	

		<p>of associated enterprises as referred to in Article 56.</p> <p>2. For the purposes of this Article, 'equity' means any of the following:</p> <p>(a) 'capital and reserves', as described in letter A., under 'Capital, reserves and liabilities' in Annex III to Directive 2013/34/EU of the European Parliament and of the Council¹⁴;</p> <p>(b) 'capital and reserves', as described in letter L. in Annex IV to Directive 2013/34/EU;</p> <p>(c) 'equity', as defined in the International Financial Reporting Standards which are adopted and used in the Union pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council¹⁵.</p>	
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¹⁴ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

¹⁵ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

		<p>3. An amount equal to the defined yield on the AGI equity base increases shall be deductible from the taxable base of a taxpayer according to paragraphs 1 to 6. If there is an AGI equity base decrease, an amount equal to the defined yield on the AGI equity base decrease shall become taxable.</p> <p>4. AGI equity base increases or decreases shall be calculated, for the first ten tax years that a taxpayer is subject to the rules of this Directive, as the difference between its AGI equity base at the end of the relevant tax year and its AGI equity base on the first day of the first tax year under the rules of this Directive. After the first ten tax years, the reference to the amount of AGI equity base that shall be deductible against the AGI equity base at the end of the relevant tax year shall annually be moved forward by one tax year.</p> <p>5. The defined yield referred</p>	
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		<p>to in paragraph 3 shall be equal to the yield of the euro area 10-year government benchmark bond in December of the year preceding the relevant tax year, as published by the European Central Bank, increased by a risk premium of two percentage points. A floor of two per cent shall apply where the curve of the annual yield is negative.</p> <p>6. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to lay down more detailed rules against tax avoidance, and more particularly in the following fields relevant to the AGI:</p> <ul style="list-style-type: none"> (a) intra-group loans and loans involving associated enterprises; (b) cash contributions and contributions in kind; (c) transfers of participations; (d) the re-categorisation 	
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		<p>of old capital as new capital through liquidations and the creation of start-ups;</p> <p>(e) the creation of subsidiaries;</p> <p>(f) acquisitions of businesses held by associated enterprises;</p> <p>(g) double-dipping structures combining interest deductibility and deductions under the AGI;</p> <p>(h) increases in the amount of loan financing receivables towards associated enterprises as compared to the amount of such receivables at the reference date.</p>	
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<p style="text-align: center;"><i>Article 14</i> <i>Non-deductible expenses</i></p> <p>1. The following expenses shall be treated as non-deductible:</p> <ul style="list-style-type: none"> (a) profit distributions and repayments of equity or debt; (b) 50% of entertainment costs; (c) the transfer of retained earnings to a reserve which forms part of the equity of the company; (d) corporate tax; (e) bribes; (f) fines and penalties payable to a public authority for breach of any legislation; (g) costs incurred by a company for the purpose of deriving income which is exempt pursuant to Article 11; such costs shall be fixed at a flat rate of 5% of that income unless the taxpayer is able to 		<p style="text-align: center;"><i>Article 12</i> <i>Non-deductible items</i></p> <p>By way of derogation from Articles 9 and 10, the following items shall be non-deductible:</p> <ul style="list-style-type: none"> (a) profit distributions and repayments of equity or debt; (b) 50 % of entertainment costs, up to an amount that does not exceed [x] % of revenues in the tax year; (c) the transfer of retained earnings to a reserve that forms part of the equity of the company; (d) corporate tax and similar taxes on profits; (e) bribes and other illegal payments; (f) fines and penalties, including charges for late payment, that are due to a public authority for breach of any legislation; (g) expenses incurred by a company for the purpose of deriving income that is exempt pursuant to points (c), (d) and (e) of Article 8; (h) gifts and donations other than those referred to in 	
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<p>demonstrate that it has incurred a lower cost;</p> <p>(h) monetary gifts and donations other than those made to charitable bodies as defined in Article 16;</p> <p>(i) save as provided for in Articles 13 and 20, costs relating to the acquisition, construction or improvement of fixed assets except those relating to research and development;</p> <p>(j) taxes listed in Annex III, with the exception of excise duties imposed on energy products, alcohol and alcoholic beverages, and manufactured tobacco.</p> <p>2. Notwithstanding point (j) of paragraph 1 a Member State may provide for deduction of one or more of the taxes listed in Annex III. In the case of a</p>		<p>(i) Article 9(4); acquisition or construction costs or cost connected with the improvement of fixed assets which are deductible under Articles 10 and 18, except for the cost related to research and development. The costs referred to in point (a) of Article 33(1) and points (a) and (b) of Article 33(2) shall not be treated as costs related to research and development;</p> <p>(j) losses incurred by a permanent establishment in a third country.</p>	
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<p>group, any such deduction shall be applied to the apportioned share of the group members resident or situated in that Member State.</p> <p>3. The Commission may adopt delegated acts in accordance with Article 127 and subject to the conditions of Articles 128, 129 and 130 to amend Annex III as is necessary in order to include all similar taxes which raise more than 20 % of the total amount of corporate tax in the Member State in which they are levied. Amendments to Annex III shall first apply to taxpayers in their tax year starting after the amendment.</p>			
	<p><i>ATAD Article 4¹⁶</i> <i>Interest limitation rule</i></p> <p>1. Exceeding borrowing costs shall be deductible in the tax period in which they are incurred only up to 30 percent of the taxpayer's earnings</p>	<p><i>Article 13</i> <i>Interest limitation rule</i></p> <p>1. Borrowing costs shall be deductible up to the amount of the interest or other taxable revenues</p>	

¹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L1164&from=EN>

	<p>before interest, tax, depreciation and amortisation (EBITDA).</p> <p>For the purpose of this Article, Member States may also treat as a taxpayer:</p> <p>(a) an entity which is permitted or required to apply the rules on behalf of a group, as defined according to national tax law;</p> <p>(b) an entity in a group, as defined according to national tax law, which does not consolidate the results of its members for tax purposes.</p> <p>In such circumstances, exceeding borrowing costs and the EBITDA may be calculated at the level of the group and comprise the results of all its members.</p> <p>2. The EBITDA shall be calculated by adding back to the income subject to corporate tax in the Member State of the taxpayer the tax-adjusted amounts for exceeding borrowing costs as well as the tax-adjusted amounts for depreciation and amortisation. Tax exempt income shall be excluded from the EBITDA of a taxpayer.</p> <p>3. By derogation from paragraph 1, the taxpayer may be given the right:</p> <p>(a) to deduct exceeding borrowing costs up to EUR 3 000 000;</p> <p>(b) to fully deduct exceeding</p>	<p>from financial assets received by the taxpayer.</p> <p>2. Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of 30 % of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount of EUR 3 000 000, whichever is higher.</p> <p>For the purposes of this Article, where a taxpayer is permitted or required to act on behalf of a group, as defined in the rules of a national group taxation system, the entire group shall be treated as a taxpayer. In those circumstances, exceeding borrowing costs and the EBITDA shall be calculated for the entire group. The amount of EUR 3 000 000 shall also be considered for the entire group.</p> <p>3. The EBITDA shall be calculated by adding back to the tax base of the taxpayer the tax-adjusted</p>	
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	<p>borrowing costs if the taxpayer is a standalone entity.</p> <p>For the purposes of the second subparagraph of paragraph 1, the amount of EUR 3 000 000 shall be considered for the entire group.</p> <p>For the purposes of point (b) of the first subparagraph, a standalone entity means a taxpayer that is not part of a consolidated group for financial accounting purposes and has no associated enterprise or permanent establishment.</p> <p>4. Member States may exclude from the scope of paragraph 1 exceeding borrowing costs incurred on:</p> <p>(a) loans which were concluded before 17 June 2016, but the exclusion shall not extend to any subsequent modification of such loans;</p> <p>(b) loans used to fund a long-term public infrastructure project where the project operator, borrowing costs, assets and income are all in the Union.</p> <p>For the purposes of point (b) of the first subparagraph, a long-term public infrastructure project means a project to provide, upgrade, operate and/or maintain a large-scale asset that is considered in the general public interest by a Member State.</p>	<p>amounts for exceeding borrowing costs, as well as the tax-adjusted amounts for depreciation and amortisation. Tax-exempt revenues shall be excluded from the EBITDA of a taxpayer.</p> <p>4. By way of derogation from paragraph 2, a taxpayer who qualifies as a standalone company shall be entitled to fully deduct its exceeding borrowing costs. A standalone company means a taxpayer who is not part of a consolidated group for financial accounting purposes and has no associated enterprises or permanent establishments.</p> <p>5. By way of derogation from paragraph 2, exceeding borrowing costs shall be fully deductible if they are incurred on:</p> <p>(a) loans concluded before [date of political agreement on this directive], with the exclusion of any subsequent modifications of</p>	
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	<p>Where point (b) of the first subparagraph applies, any income arising from a long-term public infrastructure project shall be excluded from the EBITDA of the taxpayer, and any excluded exceeding borrowing cost shall not be included in the exceeding borrowing costs of the group vis-à-vis third parties referred to in point (b) of paragraph 5.</p> <p>5. Where the taxpayer is a member of a consolidated group for financial accounting purposes, the taxpayer may be given the right to either:</p> <p>(a) fully deduct its exceeding borrowing costs if it can demonstrate that the ratio of its equity over its total assets is equal to or higher than the equivalent ratio of the group and subject to the following conditions:</p> <p>(i) the ratio of the taxpayer's equity over its total assets is considered to be equal to the equivalent ratio of the group if the ratio of the taxpayer's equity over its total assets is lower by up to two percentage points; and</p> <p>(ii) all assets and liabilities are valued using the same method as in the consolidated financial</p>	<p>those loans;</p> <p>(b) loans used to fund long-term public infrastructure projects, where the project operator, borrowing costs, assets and income are all in the Union.</p> <p>For the purposes of point (b), a long-term public infrastructure project shall mean a project to provide, upgrade, operate or maintain a large-scale asset that a Member State considers to be in the general public interest.</p> <p>Where point (b) applies, any income arising from a long-term public infrastructure project shall be excluded from the EBITDA of the taxpayer.</p> <p>6. Exceeding borrowing costs that cannot be deducted in a given tax year shall be carried forward without time limitation.</p> <p>7. Paragraphs 1 to 6 shall not apply to financial undertakings, including those that are part of a consolidated group for</p>	
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	<p>statements referred to in paragraph 8;</p> <p>or</p> <p>(b) deduct exceeding borrowing costs at an amount in excess of what it would be entitled to deduct under paragraph 1. This higher limit to the deductibility of exceeding borrowing costs shall refer to the consolidated group for financial accounting purposes in which the taxpayer is a member and be calculated in two steps:</p> <p>(i) first, the group ratio is determined by dividing the exceeding borrowing costs of the group vis-à-vis third-parties over the EBITDA of the group; and</p> <p>(ii) second, the group ratio is multiplied by the EBITDA of the taxpayer calculated pursuant to paragraph 2.</p> <p>6. The Member State of the taxpayer may provide for rules either:</p> <p>(a) to carry forward, without time limitation, exceeding borrowing costs which cannot be deducted in the current tax period under paragraphs 1 to 5;</p> <p>(b) to carry forward, without time limitation, and back, for a</p>	<p>financial accounting purposes.</p>	
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	<p>maximum of three years, exceeding borrowing costs which cannot be deducted in the current tax period under paragraphs 1 to 5; or</p> <p>(c) to carry forward, without time limitation, exceeding borrowing costs and, for a maximum of five years, unused interest capacity, which cannot be deducted in the current tax period under paragraphs 1 to 5.</p> <p>7. Member States may exclude financial undertakings from the scope of paragraphs 1 to 6, including where such financial undertakings are part of a consolidated group for financial accounting purposes.</p> <p>8. For the purpose of this Article, the consolidated group for financial accounting purposes consists of all entities which are fully included in consolidated financial statements drawn up in accordance with the International Financial Reporting Standards or the national financial reporting system of a Member State. The taxpayer may be given the right to use consolidated financial statements prepared under other accounting standards.</p>		
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<p><i>Article 15</i> <i>Expenditure incurred for the benefit of shareholders</i></p> <p>Benefits granted to a shareholder who is an individual, his spouse, lineal ascendant or descendant or associated enterprises, holding a direct or indirect participation in the control, capital or management of the taxpayer, as referred to in Article 78, shall not be treated as deductible expenses to the extent that such benefits would not be granted to an independent third party.</p>	<p><i>Article 15</i> <i>Expenditure incurred for the benefit of shareholders</i></p> <p>Benefits granted to a shareholder who is an individual, his spouse, lineal ascendant or descendant or associated enterprises, holding a direct or indirect participation in the control, capital or management of the taxpayer, as referred to in Article 78, shall not be treated as deductible expenses to the extent that such benefits would not be granted to an independent third party.</p>	<p><i>Article 14</i> <i>Expenditure incurred for the benefit of shareholders, direct relatives of those shareholders or associated enterprises</i></p> <p>Benefits granted to a shareholder who is an individual, to his or her spouse, to his or her lineal ascendant or descendant or granted to an associated enterprise as referred to in Article 56, shall not be treated as deductible expenses where such benefits would not be granted to an independent third party.</p>	
<p>CHAPTER V TIMING AND QUANTIFICATION</p> <p><i>Article 17</i> <i>General principles</i></p> <p>Revenues, expenses and all other deductible items shall be recognised in the tax year in which they accrue or are incurred, unless otherwise provided for in this Directive.</p>	<p>CHAPTER V TIMING AND QUANTIFICATION</p> <p><i>Article 17</i> <i>General principles</i></p> <p>Revenues, expenses and all other deductible items shall be recognised in the tax year in which they accrue or are incurred, unless otherwise provided for in this Directive.</p>	<p>CHAPTER III TIMING AND QUANTIFICATION</p> <p><i>Article 15</i> <i>General principles</i></p> <p>Revenues and expenses, as well as all other deductible items, shall be recognised in the tax year in which they accrue or are incurred, unless otherwise provided for in this Directive.</p>	

<p style="text-align: center;"><i>Article 18</i> <i>Accrual of revenues</i></p> <p>Revenues accrue when the right to receive them arises and they can be quantified with reasonable accuracy, regardless of whether the actual payment is deferred.</p>	<p style="text-align: center;"><i>Article 18</i> <i>Accrual of revenues</i></p> <p>Revenues accrue when the right to receive them arises and they can be [quantified with reasonable accuracy/<u>measured reliably</u>], regardless of whether the actual payment is deferred.</p> <p><u>The following rules apply subject to the provisions of Article 24 relating to long term contracts:</u></p> <ol style="list-style-type: none"> 1. <u>Profits Revenues resulting from trade in goods shall be considered to be accrued when the following conditions are fulfilled:</u> <ol style="list-style-type: none"> a) <u>the entity has transferred to the buyer the significant risks and rewards of ownership of the goods;</u> b) <u>the entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;</u> 	<p style="text-align: center;"><i>Article 16</i> <i>Accrual of revenues</i></p> <ol style="list-style-type: none"> 1. Revenues shall accrue at the moment that the right to receive them has arisen and they can be measured reliably, irrespective of whether the relevant amounts have actually been paid. 2. Revenues resulting from trade in goods shall be considered to have been accrued in accordance with paragraph 1 when the following conditions are fulfilled: <ol style="list-style-type: none"> (a) the taxpayer has transferred to the buyer the ownership of the goods sold; (b) the taxpayer does not retain effective control over the goods sold; (c) the amount of revenue can be measured reliably; (d) it is probable that the economic benefits 	
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	<p>c) <u>the amount of revenue can be measured reliably;</u></p> <p>d) <u>it is probable that the economic benefits associated with the transaction will flow to the entity;</u></p> <p>e) <u>the costs incurred or to be incurred in respect of the transaction can be measured reliably.</u></p>	<p>associated with the transaction will flow to the taxpayer;</p> <p>(e) the costs incurred or to be incurred in respect of the transaction can be measured reliably.</p>	
	<p>2. <u>Profits Revenues resulting from the supply of services shall be considered to be accrued to the extent that the services have been provided and when the following conditions are fulfilled:</u></p> <p>a) <u>the amount of revenue can be measured reliably;</u></p> <p>b) <u>it is probable that the economic benefits will flow to the seller;</u></p> <p>c) <u>{the stage of completion of the transaction at the end of the tax year can be measured reliably};</u> <u>and</u></p> <p>d) <u>the costs incurred, or</u></p>	<p>3. Revenues resulting from the supply of services shall be considered to have accrued to the extent that the services have been provided and when the following conditions have been fulfilled:</p> <p>(a) the amount of revenue can be measured reliably;</p> <p>(b) it is probable that the economic benefits associated with the transaction will flow to the provider;</p> <p>(c) the stage of completion of the transaction at the end of the tax year can be measured reliably;</p>	

	<p><u>to be incurred, in respect of the transaction can be measured reliably.</u></p> <p><u>When the above criteria are not met, revenue arising from the rendering of services shall be recognised only to the extent of the expenses recognised that are recoverable.</u></p>	<p>(d) the costs incurred or to be incurred in respect of the transaction can be measured reliably.</p> <p>Where the criteria set out in points (a) to (d) are not met, revenues arising from the supply of services shall be considered to have accrued only to the extent that they can be matched to deductible expenses.</p> <p>4. Where revenues arise from payments to the taxpayer which are scheduled to be carried out at several stages, revenues shall be considered to accrue when each of the individual instalments becomes due.</p>	
<p><i>Article 19</i> <i>Incurrence of deductible expenses</i></p> <p>A deductible expense is incurred at the moment that the following conditions are met:</p> <p>(a) the obligation to make the payment has arisen;</p> <p>(b) the amount of the obligation can be quantified with reasonable accuracy;</p> <p>(c) in the case of trade in goods, the significant risks and</p>	<p><i>Article 19</i> <i>Incurrence of deductible expenses</i></p> <p>A deductible expense is incurred at the moment that the following conditions are met:</p> <p>a) the obligation to make the payment has arisen;</p> <p>b) the amount of the obligation can be quantified with reasonable accuracy;</p> <p>c) in the case of trade in goods, the significant risks and rewards of</p>	<p><i>Article 17</i> <i>Incurrence of deductible expenses</i></p> <p>Deductible expenses are incurred at the moment that all of the following conditions are met:</p> <p>a) the obligation to make the payment has arisen; where an expense consists of payments by the taxpayer at several stages, the obligation to make a payment shall arise when each of the individual instalments becomes due;</p>	

rewards of ownership over the goods have been transferred to the taxpayer and, in the case of supplies of services, the latter have been received by the taxpayer.	ownership over the goods have been transferred to the taxpayer and, in the case of supplies of services, the latter have been received by the taxpayer.	b) the amount of the obligation can be quantified with reasonable accuracy; c) in the case of trade in goods, the significant risks and rewards of ownership over the goods have been transferred to the taxpayer and, in the case of supplies of services, the latter have been received by the taxpayer.	
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<p><i>Article 20</i> <i>Costs related to non-depreciable assets</i></p> <p>The costs relating to the acquisition, construction or improvement of fixed assets not subject to depreciation according to Article 40 shall be deductible in the tax year in which the fixed assets are disposed of, provided that the disposal proceeds are included in the tax base.</p>	<p><i>Article 20</i> <i>Costs related to non-depreciable assets</i></p> <p>The costs relating to the acquisition, construction or improvement of fixed assets not subject to depreciation according to Article 40 shall be deductible in the tax year in which the fixed assets are disposed of, provided that the disposal proceeds are included in the tax base.</p>	<p><i>Article 18</i> <i>Costs related to non-depreciable assets</i></p> <p>Acquisition or construction costs of fixed tangible assets as referred to in Article 38, or costs for the improvement of those assets, shall be deductible in the tax year in which those assets are disposed of, provided that the disposal proceeds are included in the tax base.</p>	
<p><i>Article 21</i> <i>Stocks and work-in-progress</i></p> <p>The total amount of deductible expenses for a tax year shall be increased by the value of stocks and work-in-progress at the beginning of the tax year and reduced by the value of stocks and work-in-progress at the end of the same tax year. No adjustment shall be made in respect of stocks and work-in-progress relating to long-term contracts.</p>	<p><i>Article 21</i> <i>Stocks and work-in-progress</i></p> <p><u>1. Incurrence of expenses on stocks and work-in-progress</u></p> <p>a) The total amount of deductible expenses for a tax year shall be increased by the value of stocks and work-in-progress at the beginning of the tax year and reduced by the value of stocks and work-in-progress at the end of the same tax year.</p> <p>b) No adjustment shall be made in respect of stocks and work-in-progress relating to long-term contracts.</p> <p><u>2. Valuation of stocks and work-in-progress</u></p> <p><u>a) 1. (i) The cost of stock items</u></p>	<p><i>Article 19</i> <i>Measuring stocks and work-in-progress</i></p> <p>1. The total amount of deductible expenses for a tax year shall be increased with the value of stocks and work-in-progress at the beginning of the tax year and decreased with the value of stocks and work-in-progress at the end of the same tax year, with the exception of stocks and work-in-progress relating to long-term contracts as referred to in Article 22.</p> <p>2. The costs of stocks and work-in-progress shall be measured consistently by</p>	

	<p>and work-in-progress that are not ordinarily interchangeable and goods or services produced and segregated for specific projects shall be measured individually.</p> <p>(ii) The costs of other stock items and work-in-progress shall be measured by using the first-in first-out (FIFO), <u>[or last-in first-out (LIFO).]</u> or weighted-average cost method.</p> <p>b) 2- (i) A taxpayer shall consistently use the same method for the valuation of all stocks and work-in-progress having a similar nature and use.</p> <p>3- (ii) The cost of stocks and work-in-progress shall comprise all costs of purchase, direct costs of conversion and other direct costs incurred in bringing them to their present location and condition.</p> <p>(iii) Costs shall be net of deductible Value Added Tax.</p>	<p>using the first-in first-out method, last-in first-out method or the weighted-average cost method.</p> <p>3. The cost of stocks and work-in-progress involving items that ordinarily are not interchangeable and goods or services which are produced or supplied respectively and segregated for specific projects shall be measured individually.</p>	
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	<p><u>(iv)</u> [A taxpayer who has included indirect costs in valuing stocks and work-in-progress before opting for the system provided for by this Directive may continue to apply the indirect cost approach.]</p> <p><u>(v)</u> The valuation of stocks and work-in-progress shall be done in a consistent way.</p> <p><u>c)</u></p> <p><u>(i)</u> Stocks and work-in-progress shall be valued on the last day of the tax year at the lower of cost and net realisable value.</p> <p><u>(ii)</u> The net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.</p>		
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<i>Article 22 Valuation</i>	<i>Article 22 Valuation</i>	<i>Article 20 Valuation</i>	
<p>1. For the purposes of calculating the tax base, transactions shall be measured at:</p> <p>(a) the monetary consideration for the transaction, such as the price of goods or services;</p> <p>(b) the market value where the consideration for the transaction is wholly or partly non-monetary;</p> <p>(c) the market value in the case of a non-monetary gift received by a taxpayer;</p> <p>(d) the market value in the case of non-monetary gifts made by a taxpayer other than gifts to charitable bodies;</p> <p>(e) the fair value of financial assets and liabilities held for trading;</p> <p>(f) the value for tax</p>	<p>1. For the purposes of calculating the tax base, transactions shall be measured at:</p> <p>a) the monetary consideration for the transaction, such as the price of goods or services;</p> <p>b) the market value where the consideration for the transaction is wholly or partly non-monetary; <u>["Market value" to be defined as the amount for which asset may be exchanged or mutual obligations settled between willing independent buyers and sellers in a direct transaction.]</u></p> <p>c) the market value in the case of a non-monetary gift received by a taxpayer;</p> <p>d) the market value in the case of non-monetary gifts made by a taxpayer other than gifts to charitable bodies;</p> <p><u>(d) the fair value</u> market value of financial assets and liabilities held for</p>	<p>1. The tax base shall be calculated on the basis of the following elements:</p> <p>(a) the monetary consideration for the transaction, such as the price of the goods sold or the services provided;</p> <p>(b) the market value, where the consideration for the transaction is wholly or partly non-monetary;</p> <p>(c) the market value, in the case of a non-monetary gift;</p> <p>(d) the market value of financial assets and liabilities held for trading.</p>	

<p>purposes in the case of non-monetary gifts to charitable bodies.</p> <p>2. The tax base, income and expenses shall be measured in EUR during the tax year or translated into EUR on the last day of the tax year at the annual average exchange rate for the calendar year issued by the European Central Bank or, if the tax year does not coincide with the calendar year, at the average of daily observations issued by the European Central Bank through the tax year. This shall not apply to a single taxpayer located in a Member State which has not adopted the EUR. Nor shall it apply to a group if all group members are located in the same Member State and that state has not adopted the EUR.</p>	<p>trading;</p> <p>(e) the value for tax purposes in the case of non-monetary gifts to charitable bodies.</p> <p>2. The tax base, income and expenses shall be measured in EUR during the tax year or translated into EUR on the last day of the tax year at the annual average exchange rate for the calendar year issued by the European Central Bank or, if the tax year does not coincide with the calendar year, at the average of daily observations issued by the European Central Bank through the tax year. This shall not apply to a single taxpayer located in a Member State which has not adopted the EUR. Nor shall it apply to a group if all group members are located in the same Member State and that state has not adopted the EUR.</p>	<p>2. The tax base, including revenues and expenses, shall be expressed in EUR during the tax year or on the last day of the tax year, at the annual average exchange rate for the calendar year issued by the European Central Bank or, if the tax year does not coincide with the calendar year, at the average of daily observations issued by the European Central Bank through the tax year.</p> <p>3. Paragraph 2 shall not apply to a taxpayer in a Member State that has not adopted the EUR.</p>	
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<p style="text-align: center;"><i>Article 23</i> <i>Financial assets and liabilities held for trading (trading book)</i></p> <p>1. A financial asset or liability shall be classified as held for trading if it is one of the following:</p> <ul style="list-style-type: none"> (a) acquired or incurred principally for the purpose of selling or repurchasing in the near term; (b) part of a portfolio of identified financial instruments, including derivatives, that are managed together and for which there is evidence of a recent actual pattern of short-term profit-taking. <p>2. Notwithstanding Articles 18 and 19, any differences between the fair value at the end of the tax year and the fair value at the beginning of the same tax year, or at the date of purchase if later, of financial assets or</p>	<p style="text-align: center;"><i>Article 23</i> <i>Financial assets and liabilities held for trading (trading book)</i></p> <p>1. A financial asset or liability shall be classified as held for trading if it is one of the following:</p> <ul style="list-style-type: none"> (a) acquired or incurred principally for the purpose of selling or repurchasing in the near term; (b) part of a portfolio of identified financial instruments, including derivatives, that are managed together and for which there is evidence of a recent actual pattern of short-term profit-taking. <p>2. Notwithstanding Articles 18 and 19, any differences between the market value at the end of the tax year and the market value at the beginning of the same tax year, or at the date of purchase if later, of financial assets or liabilities held for trading shall be included in the tax base.</p>	<p style="text-align: center;"><i>Article 21</i> <i>Financial assets and liabilities held for trading (trading book)</i></p> <p>1. A financial asset or liability shall be treated as held for trading if it is one of the following:</p> <ul style="list-style-type: none"> (a) it is acquired or incurred principally for the purpose of selling it or repurchasing it in the short term; (b) it is part of a portfolio of identified financial instruments, including derivatives, that are managed together and for which there is evidence of a recent actual pattern of short-term profit-taking. <p>2. By way of derogation from Articles 16 and 17, any differences between the market value of financial assets or liabilities held for trading, calculated at the beginning of a tax year or at the date of purchase if later, and their market value calculated at the end of the same</p>	
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<p>liabilities held for trading shall be included in the tax base.</p> <p>3. When a financial asset or liability held for trading is disposed of, the proceeds shall be added to the tax base. The fair value at the beginning of the tax year, or the market value at the date of purchase if later, shall be deducted.</p>	<p>3. When a financial asset or liability held for trading is disposed of, the proceeds shall be added to the tax base. The market value at the beginning of the tax year, or the market value at the date of purchase if later, shall be deducted.</p> <p>4. <u>When profit distributions are received in respect of a holding held for trading the exemption from corporate tax referred to in Article 11(c) shall not apply.</u></p> <p>5. <u>Notwithstanding Article 11(d), if a financial asset or liability is no longer held for trading whilst is held as a fixed asset according to Article 4(14), any differences between the market value of the asset or liability at the end of this tax year and the market value at the beginning of the same tax year, or at the date of purchase as a trading book asset if later, shall be included in the tax base of this tax year. Notwithstanding</u></p>	<p>tax year, shall be included in the tax base of that tax year.</p> <p>3. The proceeds of a financial asset or liability held for trading that is disposed of shall be added to the tax base. The market value of that asset or liability at the beginning of the tax year or at the date of purchase if later shall be deducted from the tax base.</p> <p>4. Where profit distributions are received in respect of a participation held for trading, the exemption from the tax base referred to in point (d) of Article 8 shall not apply.</p> <p>5. By way of derogation from point (c) of Article 8, any differences between the market value of a financial asset or liability that is no longer held for trading but is still held as a fixed asset, calculated at the beginning of a tax year or at the date of purchase if later, and its market value calculated at the end of the same tax year, shall be included in the tax base of that tax year. By way of derogation from point (c) of Article 8, any differences</p>	
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	<p><u>Article 11(d), if a financial asset or liability is no longer held as a fixed asset according to Article 4(14) whilst is held for trading, any differences between the market value of the asset or liability at the end of this tax year and the market value at the beginning of the same tax year, or at the date of purchase as fixed asset if later, shall be included in the tax base of this tax year. The market value, at the end of the tax year, of the asset or liability which from held for trading has changed into a fixed asset or vice versa shall become relevant for tax purposes as of the year following this change.</u></p> <p>6. <u>In paragraph 5, the holding period under Article 11 (c) shall be interrupted or begin where the asset or liability is no longer held as a fixed asset or no longer held for trading respectively.</u></p> <p>7. <u>Paragraphs 5 and 6 shall apply to financial assets and liabilities acquired in a business organization according with Articles 70 and 71.</u></p>	<p>between the market value of a financial asset or liability that is no longer held as a fixed asset but is still held for trading, calculated at the beginning of a tax year or at the date of purchase if later, and its market value calculated at the end of the same tax year, shall be included in the tax base of that tax year.</p> <p>The market value of a financial asset or liability at the end of the tax year during which it transitioned from fixed asset to an asset or liability held for trading and vice versa shall also be its market value at the beginning of the year following the transition.</p> <p>6. The period referred to in point (c) of Article 8 shall begin or be interrupted when the financial asset or liability is no longer held for trading or is no longer a fixed asset .</p>	
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<p style="text-align: center;"><i>Article 24</i> <i>Long-term contracts</i></p> <p>1. A long-term contract is one which complies with the following conditions:</p> <p style="padding-left: 40px;">(a) it is concluded for the purpose of manufacturing, installation or construction or the performance of services;</p> <p style="padding-left: 40px;">(b) its term exceeds, or is expected to exceed, 12 months.</p> <p>2. Notwithstanding Article 18, revenues relating to a long-term contract shall be recognised, for tax purposes, at the amount corresponding to the part of the contract completed in the respective tax year. The percentage of completion shall be determined either by reference to the ratio of costs of that year to the overall estimated costs or by reference to an expert evaluation of the stage of completion at the end of the tax year.</p> <p>3. Costs relating to long-term contracts shall be taken account of in the tax year in which they are incurred.</p>	<p style="text-align: center;"><i>Article 24</i> <i>Long-term contracts</i></p> <p>1. A long-term contract is one which complies with the following conditions:</p> <p style="padding-left: 40px;">(a) it is concluded for the purpose of manufacturing, installation or construction or the performance of services;</p> <p style="padding-left: 40px;">(b) its term exceeds, or is expected to exceed, 12 months.</p> <p>2. Notwithstanding Article 18, revenues relating to a long-term contract shall be recognised, for tax purposes, at the amount corresponding to the part of the contract completed in the respective tax year. The percentage of completion shall be determined either by reference to the ratio of costs of that year to the overall estimated costs or by reference to an expert evaluation of the stage of completion at the end of the tax year.</p> <p>3. Costs relating to long-term contracts shall be taken account of deductible in the tax year in which they are incurred.</p>	<p style="text-align: center;"><i>Article 22</i> <i>Long-term contracts</i></p> <p>1. A long-term contract is one which complies with all of the following conditions:</p> <p style="padding-left: 40px;">(a) it is concluded for the purpose of manufacturing, installing or constructing, or for performing services;</p> <p style="padding-left: 40px;">(b) its term exceeds, or is expected to exceed, 12 months.</p> <p>2. By way of derogation from Article 16, revenues relating to a long-term contract shall be considered to have been accrued for the amount that corresponds to the part of the long-term contract that has been completed in the relevant tax year. The percentage of completion of the long-term contract shall be determined by reference to the ratio of costs of that year to the overall estimated costs.</p> <p>3. Costs relating to long-term contracts shall be deductible in the tax year in which they are incurred.</p>	
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<i>Article 25 Provisions</i>	<i>Article 25 Provisions</i>	<i>Article 23 Provisions</i>	
<p>1. Notwithstanding Article 19, where at the end of a tax year it is established that the taxpayer has a legal obligation, or a probable future legal obligation, arising from activities or transactions carried out in that, or previous tax years, any amount arising from that obligation which can be reliably estimated shall be deductible, provided that the eventual settlement of the amount is expected to result in a deductible expense.</p> <p>Where the obligation relates to an activity or transaction which will continue over future tax years, the deduction shall be spread proportionately over the estimated duration of the activity or transaction, having regard to the revenue derived therefrom.</p> <p>Amounts deducted under this Article shall be</p>	<p><u>1.</u> Notwithstanding Article 19, where at the end of a tax year it is established that the taxpayer has a legal obligation, or a [probable future legal obligation], arising from activities or transactions carried out in that, or previous tax years, any amount arising from that obligation which can be reliably estimated shall be deductible, provided that the eventual settlement of the amount is expected to result in a deductible expense.</p> <p><u>For the purpose of this Article, a legal obligation may derive from:</u></p> <p><u>a) a contract;</u></p> <p><u>b) legislation;</u></p> <p><u>c) an administrative act of general nature or addressed to a specific taxpayer; or</u></p> <p><u>d) other operation of law.</u></p> <p>Where the obligation relates to an activity or transaction which will continue over</p>	<p>1. By way of derogation from Article 17, where at the end of a tax year it is established that the taxpayer has a legal obligation, or a probable future legal obligation, arising from activities or transactions carried out in that, or previous tax years, any amount arising from that obligation which can be reliably estimated shall be deductible, provided that the eventual settlement of the amount is expected to result in a deductible expense.</p> <p>For the purposes of this Article, a legal obligation may derive from any of the following:</p> <p>(a) a contract;</p> <p>(b) legislation;</p> <p>(c) an administrative act of general nature or addressed to a specific taxpayer;</p> <p>(d) another operation of law.</p> <p>Where the obligation</p>	

<p>reviewed and adjusted at the end of every tax year. In calculating the tax base in future years account shall be taken of amounts already deducted.</p> <p>2. A reliable estimate shall be the expected expenditure required to settle the present obligation at the end of the tax year, provided that the estimate is based on all relevant factors, including past experience of the company, group or industry. In measuring a provision the following shall apply:</p> <p>(a) account shall be taken of all risks and uncertainties.</p>	<p>future tax years, the deduction shall be spread proportionately over the estimated duration of the activity or transaction, having regard to the revenue derived therefrom.</p> <p>Amounts deducted under this Article shall be reviewed and adjusted at the end of every tax year. In calculating the tax base in future years account shall be taken of amounts already deducted.</p> <p><u>2.</u> A reliable estimate shall be the expected expenditure required to settle the present obligation at the end of the tax year, provided that the estimate is based on all relevant factors, including past experience of the company, group or industry. In measuring a provision the following shall apply:</p> <p>a) account shall be taken of all risks and uncertainties. However, uncertainty shall not justify the creation of</p>	<p>relates to an activity or transaction which will continue over future tax years, the provision shall be spread proportionately over the estimated duration of the activity or transaction.</p> <p>Provisions under this Article shall be reviewed and adjusted at the end of every tax year. In calculating the tax base in future tax years, account shall be taken of amounts that have already been deducted pursuant to this Article.</p> <p>2. A reliably estimated amount as referred to in paragraph 1 shall be the expected expenditure required to settle the present legal obligation at the end of the tax year, provided that that estimation is based on all relevant factors, including past experience of the company, group or industry. In estimating the amount of a provision, the following shall apply:</p> <p>(a) account shall be</p>	
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<p>However, uncertainty shall not justify the creation of excessive provisions;</p> <p>(b) if the term of the provision is 12 months or longer and there is no agreed discount rate, the provision shall be discounted at the yearly average of the Euro Interbank Offered Rate (Euribor) for obligations with a maturity of 12 months, as published by the European Central Bank, in the calendar year in the course of which the tax year ends;</p> <p>(c) future events shall be taken into account where they can reasonably be expected to occur;</p> <p>(d) future benefits directly linked to the event giving rise to the provision shall</p>	<p>excessive provisions;</p> <p>b) if the term of the provision is 12 months or longer and there is no agreed discount rate, the provision shall be discounted [at the yearly average of the Euro Interbank Offered Rate (Euribor) for obligations with a maturity of 12 months, as published by the European Central Bank, in the calendar year in the course of which the tax year ends];</p> <p>c) future events shall be taken into account where they can reasonably be expected to occur;</p> <p>d) future benefits directly linked to the event giving rise to the provision shall be taken</p>	<p>taken of all risks and uncertainties, but uncertainty shall not justify the creation of excessive provisions;</p> <p>(b) if the term of the provision is 12 months or longer and there is no agreed discount rate, the provision shall be discounted at the yearly average of the Euro Interbank Offered Rate (Euribor) for obligations with a maturity of 12 months, as published by the European Central Bank, in the calendar year in the course of which the tax year ends;</p> <p>(c) future events shall be taken into account where they can reasonably be expected to occur;</p> <p>(d) future benefits directly linked to the event giving rise to the provision shall be</p>	
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be taken into account.	into account.	taken into account.	
	<p><u>3. Notwithstanding paragraphs 1 and 2 above, a tax deduction shall not be available under any circumstances for provisions relating to the following:</u></p> <p><u>a) Contingent losses</u></p> <p><u>b) Future cost increases.</u></p>	<p>3. Provisions shall not be deducted for the following:</p> <p>(a) contingent losses;</p> <p>(b) future cost increases.</p>	

<p><i>Article 26</i> <i>Pensions</i></p> <p>In case of pension provisions actuarial techniques shall be used in order to make a reliable estimate of the amount of benefits that employees have earned in return for their service in the current and prior period.</p> <p>The pension provision shall be discounted by reference to Euribor for obligations with a maturity of 12 months, as published by the European Central Bank. The calculations shall be based on the yearly average of that rate in the calendar year in the course of which the tax year ends.</p>	<p><i>Article 26</i> <i>Pensions</i></p> <p>[In case of pension provisions actuarial techniques shall be used in order to make a reliable estimate of the amount of benefits that employees have earned in return for their service in the current and prior period.</p> <p>The pension provision shall be discounted by reference to Euribor for obligations with a maturity of 12 months, as published by the European Central Bank. The calculations shall be based on the yearly average of that rate in the calendar year in the course of which the tax year ends.</p> <p><u>Member States may provide for the deduction of pension provisions. In the case of a group, any such deduction shall be applied to the apportioned share of the group members resident or situated in that Member State.]</u></p>	<p><i>Article 24</i> <i>Pensions</i></p> <p>Member States may provide for the deduction of pension provisions.</p>	
<p><i>Article 27</i> <i>Bad debt deductions</i></p> <p>1. A deduction shall be</p>	<p><i>Article 27</i> <i>Bad debt deductions</i></p> <p>1. A deduction shall be allowed</p>	<p><i>Article 25</i> <i>Bad debt deductions</i></p> <p>1. A deduction shall be</p>	

<p>allowed for a bad debt receivable where the following conditions are met:</p> <p>(a) at the end of the tax year, the taxpayer has taken all reasonable steps to pursue payment and reasonably believes that the debt will not be satisfied wholly or partially; or the taxpayer has a large number of homogeneous receivables and is able to reliably estimate the amount of the bad debt receivable on a percentage basis, through making reference to all relevant factors, including past experience where applicable;</p>	<p>for a bad debt receivable where the following conditions are met:</p> <p>a) at the end of the tax year, the taxpayer has taken all reasonable steps, <u>as outlined in paragraph 2 of this Article</u> to pursue payment and reasonably believes <u>it is probable</u> that the debt will not be satisfied wholly or partially; or the taxpayer has a large number of homogeneous receivables <u>which all derive from the same sector of business activity</u> and is able to reliably estimate the amount of the bad debt receivable on a percentage basis, <u>provided that the value of each homogenous reveivable is lower than 0.1% of the value of all homogeneous receivables. In order to arrive at a reliable estimate, the taxpayer shall make</u> through</p>	<p>allowed for a bad debt receivable where the following conditions are met:</p> <p>(a) at the end of the tax year, the taxpayer has taken all reasonable steps, as outlined in paragraph 2 of this Article, to pursue payment and it is probable that the debt will not be satisfied wholly or partially, or the taxpayer has a large number of homogeneous receivables which all derive from the same sector of business activity and is able to reliably estimate the amount of the bad debt receivable on a percentage basis, provided that the value of each homogeneous receivable is lower than 0.1 % of the value of all homogeneous receivables. In order</p>	
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<p>(b) the debtor is not a member of the same group as the taxpayer;</p> <p>(c) no deduction has been claimed under Article 41 in relation to the bad debt;</p>	<p>making reference to all relevant factors, including past experience where applicable;</p> <p>b) the debtor is not a member of the same group as the taxpayer <u>in the meaning of Articles 54 and 55 or an associated enterprise in the meaning of Article 78. If the debtor is an individual, the debtor, his spouse, lineal ascendant or descendant shall not hold a direct or indirect participation in the control, capital or management of the taxpayer, as referred to in Article 78;</u></p> <p>c) no deduction has been claimed under Article 41 in relation to the bad debt;</p>	<p>to arrive at a reliable estimate, the taxpayer shall take into account all relevant factors, including past experience;</p> <p>(b) the debtor neither has a relation with the taxpayer as referred to Article 3, nor are the debtor and the taxpayer associated enterprises as referred to in Article 56. If the debtor is an individual, the debtor, his or her spouse or his or her lineal ascendant or descendant shall not participate in the management or control of the taxpayer, or directly or indirectly in his or her capital, as referred to in Article 56;</p> <p>(c) no deduction has been claimed under Article 39 in relation to the bad debt;</p>	
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<p>(d) where the bad debt relates to a trade receivable, an amount corresponding to the debt shall have been included as revenue in the tax base.</p>	<p>d) where the bad debt relates to a trade receivable, an amount corresponding to the debt shall have been included as revenue in the tax base.</p>	<p>(d) where the bad debt relates to a trade receivable, an amount corresponding to the debt shall be included in the tax base as revenue.</p>	
<p>2. In determining whether all reasonable steps to pursue payment have been made, the following shall be taken into account:</p> <p>(a) whether the costs of collection are disproportionate to the debt;</p> <p>(b) whether there is any prospect of successful collection;</p> <p>(c) whether it is reasonable, in the circumstances, to expect the company to pursue collection.</p>	<p>2. In determining whether all reasonable steps to pursue payment have been made, the <u>elements listed below</u> following shall be taken into account <u>provided that they are based on objective evidence:</u></p> <p>a) whether the costs of collection are disproportionate to the debt;</p> <p>b) whether there is any prospect of successful collection;</p> <p>c) whether it is reasonable, in the circumstances, to expect the company to pursue collection.;</p> <p>d) <u>the length of time, that has elapsed following the date of maturity of the obligation;</u></p> <p>e) <u>whether the debtor has</u></p>	<p>2. In determining whether all reasonable steps to pursue payment have been made, the elements listed in points (a) to (e) shall be taken into account, provided that they are based on objective evidence:</p> <p>(a) whether the costs of collection are disproportionate to the debt;</p> <p>(b) whether there is any prospect of successful collection;</p> <p>(c) whether it is reasonable, in the circumstances, to expect the taxpayer to pursue collection;</p> <p>(d) the time that has elapsed following the date of maturity</p>	

<p>3. Where a claim previously deducted as a bad debt is settled, the amount recovered shall be added to the tax base in the year of settlement.</p>	<p><u>been declared insolvent or legal action has been initiated or a debt collector has been engaged.</u></p> <p>3. Where a claim previously deducted as a bad debt is settled, the amount recovered shall be added to the tax base in the year of settlement.-</p>	<p>of the obligation; (e) whether the debtor has been declared insolvent or legal action has been initiated or a debt collector has been engaged.</p> <p>3. Where a claim previously deducted as a bad debt is settled, the amount recovered shall be added to the tax base in the year of settlement.</p>	
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<p style="text-align: center;"><i>Article 28</i> <i>Hedging</i></p> <p>Gains and losses on a hedging instrument shall be treated in the same manner as the corresponding gains and losses on the hedged item. In the case of taxpayers which are members of a group, the hedging instrument and hedged item may be held by different group members. There is a hedging relationship where both the following conditions are met:</p> <p>(a) the hedging relationship is formally designated and documented in advance;</p> <p>(b) the hedge is expected to be highly effective and the effectiveness can reliably be measured.</p>	<p style="text-align: center;"><i>Article 28</i> <i>Hedging</i></p> <p>1. Gains and losses, <u>from valuation and acts of disposal</u>, on a hedging instrument shall be treated in the same manner as the corresponding gains and losses on the hedged item. In the case of taxpayers which are members of a group, the hedging instrument and hedged item may be held by different group members. There is a hedging relationship where both the following conditions are met:</p> <p>(a) the hedging relationship is formally designated and documented in advance;</p> <p>(b) the hedge is expected to be highly effective and the effectiveness can reliably be measured.</p> <p>2. <u>If the hedging relationship is interrupted or if an instrument already held is treated as hedging</u></p>	<p style="text-align: center;"><i>Article 26</i> <i>Hedging</i></p> <p>1. Gains and losses on a hedging instrument, which result from a valuation or acts of disposal, shall be treated in the same manner as the corresponding gains and losses on the hedged item. There is a hedging relationship where both of the following conditions are met:</p> <p>(a) the hedging relationship is formally designated and documented in advance;</p> <p>(b) the hedge is expected to be highly effective and the effectiveness can reliably be measured.</p> <p>2. Where the hedging relationship is interrupted or an already held financial instrument is subsequently treated as a hedging</p>	
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	<p><u>instrument, and this entails a transition to a different tax regime of the same instrument, any difference between the new value of the instrument, to be determined according to Article 22, at the end of this tax year, and the market value at the beginning of the same tax year, shall be included in the tax base. The market value, of the instrument at the end of the tax year shall become relevant for tax purposes as of the year following the transition to a different tax regime.</u></p>	<p>instrument, leading to its transition to a different tax regime, any difference between the new value of the hedging instrument, to be determined according to Article 20 at the end of the tax year, and the market value at the beginning of the same tax year shall be included in the tax base. The market value of the hedging instrument at the end of the tax year during which that instrument transitioned to a different tax regime shall coincide with its market value at the beginning of the year following that transition.</p>	
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<p style="text-align: center;"><i>Article 29</i> <i>Stocks and work-in-progress</i></p> <p>1. The cost of stock items and work-in-progress that are not ordinarily interchangeable and goods or services produced and segregated for specific projects shall be measured individually. The costs of other stock items and work-in-progress shall be measured by using the first-in first-out (FIFO) or weighted-average cost method.</p> <p>2. A taxpayer shall consistently use the same method for the valuation of all stocks and work-in-progress having a similar</p>	<p style="text-align: center;"><i>Article 29</i> <i>Stocks and work-in-progress</i></p> <p>1.—The cost of stock items and work-in-progress that are not ordinarily interchangeable and goods or services produced and segregated for specific projects shall be measured individually. The costs of other stock items and work-in-progress shall be measured by using the first-in first-out (FIFO) or weighted-average cost method.</p> <p>2.—A taxpayer shall consistently use the same method for the valuation of all stocks and work-in-progress having a similar nature and use. The</p>	<p style="text-align: center;"><i>Article 27</i> <i>Valuation of stocks and work-in-progress</i></p> <p>1. A taxpayer shall consistently use the same method for the valuation of all stocks and work-in-progress having a similar nature and use. The cost of stocks and work-in-progress shall comprise all costs of purchase, direct costs of conversion and other direct costs incurred in bringing them to the location and condition in which they are found in the relevant tax year. Costs shall be net of deductible value added tax. A taxpayer who has included indirect costs in valuing stocks and work-in-progress before becoming subject to the rules of this Directive may continue to apply the indirect cost approach.</p> <p>2. Stocks and work-in-progress shall be valued on the last day of the tax year at the lower of cost and net realisable value.</p>	
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<p>nature and use. The cost of stocks and work-in-progress shall comprise all costs of purchase, direct costs of conversion and other direct costs incurred in bringing them to their present location and condition. Costs shall be net of deductible Value Added Tax. A taxpayer who has included indirect costs in valuing stocks and work-in-progress before opting for the system provided for by this Directive may continue to apply the indirect cost approach.</p>	<p>cost of stocks and work-in-progress shall comprise all costs of purchase, direct costs of conversion and other direct costs incurred in bringing them to their present location and condition. Costs shall be net of deductible Value Added Tax. A taxpayer who has included indirect costs in valuing stocks and work-in-progress before opting for the system provided for by this Directive may continue to apply the indirect cost approach.</p>	<p>The net realisable value is the estimated selling price in the ordinary course of business, less the estimated costs of completion and the estimated costs necessary to make the sale.</p>	
<p>3. The valuation of stocks and work-in-progress shall be done in a consistent way.</p>	<p>3. The valuation of stocks and work-in-progress shall be done in a consistent way.</p>		
<p>4. Stocks and work-in-progress shall be valued on the last day of the tax year at the lower of cost and net realisable value. The net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.</p>	<p>4. Stocks and work-in-progress shall be valued on the last day of the tax year at the lower of cost and net realisable value. The net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of</p>		

	completion and the estimated costs necessary to make the sale.		
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<p><i>Article 30</i> <i>Insurance undertakings</i></p>	<p><i>Article 30</i> <i>Insurance undertakings</i></p>	<p><i>Article 28</i> <i>Insurance undertakings</i></p>	
<p>Insurance undertakings that have been authorised to operate in the Member States, in accordance with Council Directive 73/239/EEC¹⁷ for non-life insurance, Directive 2002/83/EC of the European Parliament and of the Council¹⁸ for life insurance, and Directive 2005/68/EC of the European Parliament and of the Council¹⁹ for reinsurance, shall be subject to the following additional rules:</p> <p>(a) the tax base shall include the difference in the market value, as measured at the end and the beginning of the same tax year, or upon completion of the purchase if later, of assets in which investment</p>	<p>Insurance undertakings that have been authorised to operate in the Member States, in accordance with Council Directive 73/239/EEC²¹ for non-life insurance, Directive 2002/83/EC of the European Parliament and of the Council²² for life insurance, and Directive 2005/68/EC of the European Parliament and of the Council²³ for reinsurance, shall be subject to the following additional rules:</p> <p>(a) the tax base shall include the difference in the market value, as measured at the end and the beginning of the same tax year, or upon completion of the purchase if later, of assets in which investment is made for the benefit of life insurance policyholders bearing the</p>	<p>Insurance undertakings that are authorised to operate in a Member State in accordance with Council Directive 73/239/EEC²⁴ for non-life insurance, Directive 2002/83/EC of the European Parliament and of the Council²⁵ for life insurance, and Directive 2005/68/EC of the European Parliament and of the Council²⁶ for reinsurance, shall be subject to the following additional rules:</p> <p>(a) the tax base shall include the difference in the market value, as measured at the end and the beginning of the same tax year, or upon completion of the purchase if later, of assets in which investment</p>	

¹⁷ OJ L 228, 16.8.1973, p. 3.

¹⁸ OJ L 345, 19.12.2002, p. 1.

¹⁹ OJ L 232.9.12.2005, p. 1.

²¹ OJ L 228, 16.8.1973, p. 3.

²² OJ L 345, 19.12.2002, p. 1.

²³ OJ L 232.9.12.2005, p. 1.

²⁴ First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3).

²⁵ Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1).

²⁶ Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC (OJ L 232.9.12.2005, p. 1).

<p>is made for the benefit of life insurance policyholders bearing the investment risk;</p> <p>(b) the tax base shall include the difference in the market value, as measured at the time of disposal and the beginning of the tax year, or upon completion of the purchase if later, of assets in which investment is made for the benefit of life insurance policyholders bearing the investment risk;</p> <p>(c) the technical provisions of insurance undertakings established in compliance with Directive 91/674EEC²⁰ shall be deductible, with the exception of equalisation provisions. A Member State may provide for the deduction of equalisation provisions. In the case of a group, any such deduction</p>	<p>investment risk <u>held by life insurance undertakings;</u></p> <p>(b) the tax base shall include the difference in the market value, as measured at the time of disposal and the beginning of the tax year, or upon completion of the purchase if later, of assets in which investment is made for the benefit of life insurance policyholders bearing the investment risk <u>held by life insurance undertakings;</u></p> <p><u>(c) the tax base shall include profit distributions received by life insurance undertakings;</u></p> <p>(e) <u>(d)</u> the technical provisions of insurance undertakings established in compliance with Directive 91/674EEC shall be deductible, with the exception of equalisation provisions. A Member State may provide for the deduction of equalisation provisions. In the case</p>	<p>is made for the benefit of life insurance policyholders bearing the investment risk and which are held by life insurance undertakings;</p> <p>(b) the tax base shall include the difference in the market value, as measured at the time of disposal and the beginning of the tax year, or upon completion of the purchase if later, of assets in which investment is made for the benefit of life insurance policyholders bearing the investment risk and which are held by life insurance undertakings;</p> <p>(c) the tax base shall include profit distributions received by life insurance undertakings;</p> <p>(d) the technical provisions of insurance undertakings established in accordance with Council Directive 91/674/EEC²⁷ shall be deductible, with the exception of equalisation provisions. A Member</p>	
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²⁰ OJ L 374, 19.12.1991, p. 1.

²⁷ Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings (OJ L 374, 19.12.1991, p. 1).

<p>of equalisation provisions shall be applied to the apportioned share of the group members resident or situated in that Member State. Amounts deducted shall be reviewed and adjusted at the end of every tax year. In calculating the tax base in future years account shall be taken of amounts already deducted.</p>	<p>of a group, any such deduction of equalisation provisions shall be applied to the apportioned share of the group members resident or situated in that Member State. Amounts deducted shall be reviewed and adjusted at the end of every tax year. In calculating the tax base in future years account shall be taken of amounts already deducted.</p>	<p>State may provide for the deduction of equalisation provisions. Amounts deducted shall be reviewed and adjusted at the end of every tax year. Amounts already deducted shall be taken into account when calculating the tax base in future years.</p>	
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<p style="text-align: center;"><i>Article 31</i> <i>Transfers of assets towards a third country</i></p> <p>1. The transfer of a fixed asset by a resident taxpayer to its permanent establishment in a third country shall be deemed to be a disposal of the asset for the purpose of calculating the tax base of a resident taxpayer in relation to the tax year of the transfer. The transfer of a fixed asset by a non-resident taxpayer from its permanent establishment in a Member State to a third country shall also be deemed to be a disposal of the asset.</p> <p>2. Paragraph 1 shall not apply where the third country is party to the European Economic Area Agreement and there is an agreement on the exchange of information between that third country and the Member State of the resident taxpayer or of the permanent</p>	<p style="text-align: center;"><i>ATAD Article 5²⁸</i> <i>Exit taxation</i></p> <p>1. A taxpayer shall be subject to tax at an amount equal to the market value of the transferred assets, at the time of exit of the assets, less their value for tax purposes, in any of the following circumstances:</p> <p>(a) a taxpayer transfers assets from its head office to its permanent establishment in another Member State or in a third country in so far as the Member State of the head office no longer has the right to tax the transferred assets due to the transfer;</p> <p>(b) a taxpayer transfers assets from its permanent establishment in a Member State to its head office or another permanent establishment in another Member State or in a third country in so far as the Member State of the permanent establishment no longer has the right to tax the transferred assets due to the transfer;</p> <p>(c) a taxpayer transfers its tax residence to another Member State or to a third country, except for those assets which remain effectively connected with a</p>	<p style="text-align: center;"><i>Article 29</i> <i>Exit taxation</i></p> <p>1. An amount equal to the market value of transferred assets, at the time of exit of the assets, less their value for tax purposes, shall be treated as accrued revenues in any of the following circumstances:</p> <p>(a) where a taxpayer transfers assets from its head office to its permanent establishment in another Member State or in a third country;</p> <p>(b) where a taxpayer transfers assets from its permanent establishment in a Member State to its head office or another permanent establishment in another Member State or in a third country, to the extent that, due to the transfer, the Member State of the permanent establishment no longer has the right to tax the transferred assets;</p> <p>(c) where a taxpayer transfers its tax residence to another Member State or to a third country, except</p>	
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<p>establishment, comparable to Directive 2011/16/EU.</p>	<p>permanent establishment in the first Member State;</p> <p>(d) a taxpayer transfers the business carried on by its permanent establishment from a Member State to another Member State or to a third country in so far as the Member State of the permanent establishment no longer has the right to tax the transferred assets due to the transfer.</p> <p>2. A taxpayer shall be given the right to defer the payment of an exit tax referred to in paragraph 1, by paying it in instalments over five years, in any of the following circumstances:</p> <p>(a) a taxpayer transfers assets from its head office to its permanent establishment in another Member State or in a third country that is party to the Agreement on the European Economic Area (EEA Agreement);</p> <p>(b) a taxpayer transfers assets from its permanent establishment in a Member State to its head office or another permanent establishment in another Member State or a third country that is party to the EEA Agreement;</p> <p>(c) a taxpayer transfers its tax residence to another Member</p>	<p>for those assets which remain effectively connected with a permanent establishment in the first Member State;</p> <p>(d) where a taxpayer transfers the business carried on by its permanent establishment from a Member State to another Member State or to a third country, to the extent that, due to the transfer, the Member State of the permanent establishment no longer has the right to tax the transferred assets.</p> <p>2. The Member State to where the assets, tax residence or the business carried on by a permanent establishment are transferred shall accept the value established by the Member State of the taxpayer or of the permanent establishment as the starting value of the assets for tax purposes.</p> <p>3. This Article shall not apply to asset transfers related to the financing of securities, assets posted as collateral or where the asset transfer takes place in order to meet prudential capital requirements or for the purpose of liquidity management where those assets are set to revert to the</p>	
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	<p>State or to a third country that is party to the EEA Agreement;</p> <p>(d) a taxpayer transfers the business carried on by its permanent establishment to another Member State or a third country that is party to the EEA Agreement.</p> <p>This paragraph shall apply to third countries that are party to the EEA Agreement if they have concluded an agreement with the Member State of the taxpayer or with the Union on the mutual assistance for the recovery of tax claims, equivalent to the mutual assistance provided for in Council Directive 2010/24/EU (14).</p> <p>3. If a taxpayer defers the payment in accordance with paragraph 2, interest may be charged in accordance with the legislation of the Member State of the taxpayer or of the permanent establishment, as the case may be.</p> <p>If there is a demonstrable and actual risk of non-recovery, taxpayers may also be required to provide a guarantee as a condition for deferring the payment in accordance with paragraph 2.</p> <p>The second subparagraph shall not apply where the legislation in the Member State of the taxpayer or of the permanent establishment provides for the possibility of</p>	<p>Member State of the transferor within a period of 12 months.</p>	
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	<p>recovery of the tax debt through another taxpayer which is member of the same group and is resident for tax purposes in that Member State.</p> <p>4. Where paragraph 2 applies, the deferral of payment shall be immediately discontinued and the tax debt becomes recoverable in the following cases:</p> <p>(a) the transferred assets or the business carried on by the permanent establishment of the taxpayer are sold or otherwise disposed of;</p> <p>(b) the transferred assets are subsequently transferred to a third country;</p> <p>(c) the taxpayer's tax residence or the business carried on by its permanent establishment is subsequently transferred to a third country;</p> <p>(d) the taxpayer goes bankrupt or is wound up;</p> <p>(e) the taxpayer fails to honour its obligations in relation to the instalments and does not correct its situation over a reasonable period of time, which shall not exceed 12 months.</p> <p>Points (b) and (c) shall not apply to third countries that are party to the EEA Agreement if they have concluded an agreement with the</p>		
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	<p>Member State of the taxpayer or with the Union on the mutual assistance for the recovery of tax claims, equivalent to the mutual assistance provided for in Directive 2010/24/EU.</p> <p>5. Where the transfer of assets, tax residence or the business carried on by a permanent establishment is to another Member State, that Member State shall accept the value established by the Member State of the taxpayer or of the permanent establishment as the starting value of the assets for tax purposes, unless this does not reflect the market value.</p> <p>6. For the purposes of paragraphs 1 to 5, ‘market value’ is the amount for which an asset can be exchanged or mutual obligations can be settled between willing unrelated buyers and sellers in a direct transaction.</p> <p>7. Provided that the assets are set to revert to the Member State of the transferor within a period of 12 months, this Article shall not apply to asset transfers related to the financing of securities, assets posted as collateral or where the asset transfer takes place in order to meet prudential capital requirements or for the purpose of liquidity management.</p>		
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<p style="text-align: center;">CHAPTER VI DEPRECIATION OF FIXED ASSETS</p> <p style="text-align: center;"><i>Article 32 Fixed asset register</i></p> <p>Acquisition, construction or improvement costs, together with the relevant date, shall be recorded in a fixed asset register for each fixed asset separately.</p>	<p style="text-align: center;">CHAPTER VI DEPRECIATION OF FIXED ASSETS</p> <p style="text-align: center;"><i>Article 32 Fixed asset register</i></p> <p>1. Acquisition, construction or improvement costs, together with the [relevant date], shall be recorded in a fixed asset register for each fixed asset separately.</p> <p>2. <u>When a fixed asset is disposed of, details of the disposal, including the date of disposal, and any proceeds or compensation received as a result of the disposal, should be recorded in the register.</u></p> <p>3. <u>Fixed asset register shall be kept in a manner that would provide sufficient information, including depreciation data, for the purpose of calculating tax base.</u></p>	<p style="text-align: center;">CHAPTER IV DEPRECIATION OF FIXED ASSETS</p> <p style="text-align: center;"><i>Article 30 Fixed asset register</i></p> <p>1. Acquisition or construction costs or improvement costs, together with the relevant date, shall be recorded in a fixed asset register for each fixed asset separately.</p> <p>2. When a fixed asset is disposed of, details of the disposal, including the date of disposal, and any proceeds or compensation received as a result of the disposal, shall be recorded in the fixed asset register.</p> <p>3. The fixed asset register shall be kept in a manner that provides sufficient information, including depreciation data, to calculate the tax base.</p>	
<p style="text-align: center;"><i>Article 33 Depreciation base</i></p> <p>1. The depreciation base shall comprise any cost</p>	<p style="text-align: center;"><i>Article 33 Depreciation base</i></p> <p>1. The depreciation base shall comprise any cost directly</p>	<p style="text-align: center;"><i>Article 31 Depreciation base</i></p> <p>1. The depreciation base shall comprise costs directly</p>	

<p>directly connected with the acquisition, construction or improvement of a fixed asset.</p> <p>Costs shall not include deductible value added tax.</p> <p>In the case of fixed assets produced by the taxpayer, the indirect costs incurred in production of the asset shall also be added to the depreciation base in so far as they are not otherwise deductible.</p> <p>2. The depreciation base of an asset received as a gift shall be its market value as included in revenues.</p>	<p>connected with the acquisition, construction or improvement of a fixed asset.</p> <p><u>Acquisition or construction costs – the amount of cash or cash equivalents paid or payable, or the value of other assets given in exchange or consumed to acquire fixed asset at the time of its acquisition or construction.</u></p> <p>Costs shall not include deductible value added tax.</p> <p><u>Interest shall not be included in the acquisition, construction or improvement costs of a fixed asset.</u></p> <p><u>[In the case of fixed assets produced by the taxpayer, the indirect costs incurred in production of the asset shall also be added to the depreciation base in so far as they are not otherwise deductible.]</u></p> <p>2. The depreciation base of an asset received as a gift shall be its market value as included in revenues.</p>	<p>connected with the acquisition, construction or improvement of a fixed asset. Those costs shall not include deductible value added tax. Acquisition or construction costs or improvement costs of a fixed asset shall not include interest.</p> <p>2. The depreciation base of an asset received as a gift shall be its market value as included in revenues.</p>	
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<p>3. The depreciation base of a fixed asset subject to depreciation shall be reduced by any subsidy directly linked to the acquisition, construction or improvement of the asset as referred to in Article 11(a).</p>	<p>3. The depreciation base of a fixed asset subject to depreciation shall be reduced by any subsidy directly linked to the acquisition, construction or improvement of the asset as referred to in Article 11(a).</p> <p>4. <u>The depreciation of fixed assets not available for use shall not be calculated.</u></p>	<p>3. The depreciation base of a fixed asset subject to depreciation shall be reduced by deducting the amount of any public subsidy directly linked to the acquisition, construction or improvement of the asset, as referred to in (a) point of Article 8.</p> <p>4. The depreciation of fixed assets that are not available for use shall not be taken into account.</p>	
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<p><i>Article 34</i> <i>Entitlement to depreciate</i></p>	<p><i>Article 34</i> <i>Entitlement to depreciate</i></p>	<p><i>Article 32</i> <i>Entitlement to depreciate</i></p>	
<ol style="list-style-type: none"> 1. Subject to paragraph 3, depreciation shall be deducted by the economic owner. 2. In the case of leasing contracts in which economic and legal ownership does not coincide, the economic owner shall be entitled to deduct the interest element of the lease payments from its tax base. The interest element of the lease payments shall be included in the tax base of the legal owner. 3. A fixed asset may be depreciated by no more than one taxpayer at the same time. If the economic owner of an asset cannot be identified, the legal owner shall be entitled to deduct depreciation. In that case the interest element of the lease payments shall not be included in the tax base of the legal owner. 4. A taxpayer may not 	<ol style="list-style-type: none"> 1. Subject to paragraph 3, depreciation shall be deducted by the economic owner. 2. In the case of leasing contracts in which economic and legal ownership does not coincide, the economic owner shall be entitled to deduct the interest element of the lease payments from its tax base <u>unless it is not</u>. The interest element of the lease payments shall be included in the tax base of the legal owner. 3. A fixed asset may be depreciated by no more than one taxpayer at the same time. If the economic owner of an asset cannot be identified, the legal owner shall be entitled to deduct depreciation. In that case the interest element of the lease payments shall not be included in the tax base of the legal owner. 4. A taxpayer may not disclaim 	<ol style="list-style-type: none"> 1. Subject to paragraph 3, depreciation shall be deducted by the economic owner. 2. In the case of leasing contracts in which the economic and legal ownership do not coincide, the economic owner shall be entitled to deduct the interest element of the lease payments from its tax base, unless that element is not included in the tax base of the legal owner. 3. If the economic owner of an asset cannot be identified, the legal owner shall be entitled to deduct depreciation. In that case both the interest and capital element of the lease payments shall be included in the tax base of the legal owner and be deductible by the lessee. 4. A fixed asset may not be depreciated by more than 	

<p>disclaim depreciation.</p> <p>5. The Commission may adopt delegated acts in accordance with Article 127 and subject to the conditions of Articles 128, 129 and 130 in order to lay down more detailed rules concerning:</p> <ul style="list-style-type: none"> (a) the definition of legal and economic ownership, in relation in particular to leased assets; (b) the calculation of the capital and interest elements of the lease payments; (c) the calculation of the depreciation base of a leased asset. 	<p><u>depreciation. A fixed asset may be depreciated by no more than one taxpayer at the same time unless either legal or economic ownership is shared between more taxpayers.</u></p> <p>5. [The Commission may adopt delegated acts in accordance with Article 127 and subject to the conditions of Articles 128, 129 and 130 in order to lay down more detailed rules concerning:</p> <ul style="list-style-type: none"> a) the definition of legal and economic ownership, in relation in particular to leased assets; b) the calculation of the capital and interest elements of the lease payments; c) the calculation of the depreciation base of a leased asset.] 	<p>one taxpayer at the same time, unless either the legal or the economic ownership is shared between more taxpayers.</p> <p>5. A taxpayer may not disclaim depreciation.</p> <p>6. The Commission shall be empowered to adopt delegated acts in accordance with Article 66 concerning:</p> <ul style="list-style-type: none"> (a) the definition of legal and economic ownership, in particular in relation to leased assets; (b) the calculation of the capital and interest elements of the lease payments; (c) the calculation of the depreciation base of a leased asset. 	
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<p style="text-align: center;"><i>Article 36</i> <i>Individually depreciable assets</i></p> <p>1. Without prejudice to paragraph 2 and Articles 39 and 40, fixed assets shall be depreciated individually over their useful lives on a straight-line basis. The useful life of a fixed asset shall be determined as follows:</p> <p>(a) buildings: 40 years;</p> <p>(b) long-life tangible assets other than buildings: 15 years;</p> <p>(c) intangible assets: the period for which the asset enjoys legal protection or for which the right is granted or, if that period cannot be determined, 15 years.</p>	<p style="text-align: center;"><i>Article 36</i> <i>Individually depreciable assets</i></p> <p>1. Without prejudice to paragraph 2 and Articles 39 and 40, fixed assets shall be depreciated individually over their useful lives on a straight-line basis. The useful life of a fixed asset shall be determined as follows:</p> <p>a) buildings and other immoveable property: <u>Industrial buildings and structures [to be defined]: 25 years</u></p> <p><u>Commercial, office, other buildings and other immoveable property in use for the business: 40 years;</u></p> <p>b) long-life <u>fixed</u> tangible assets other than buildings <u>and immoveable property</u>: 15 years;</p> <p>c) <u>medium-life fixed tangible assets: 8 years;</u> <u>[Medium-life fixed tangible assets to be defined as fixed tangible assets with a useful life of 8 years or more and less than 15</u></p>	<p style="text-align: center;"><i>Article 33</i> <i>Individually depreciable assets</i></p> <p>1. Without prejudice to paragraph 2 and Articles 37 and 38, fixed assets shall be depreciated individually over their useful lives on a straight-line basis. The useful life of a fixed asset shall be determined as follows:</p> <p>(a) commercial, office and other buildings, as well as any other type of immovable property in use for the business, with the exception of industrial buildings and structures: 40 years;</p> <p>(b) industrial buildings and structures: 25 years;</p> <p>(c) long-life fixed tangible assets, other than the assets referred to in points (a) and (b): 15 years;</p> <p>(d) medium-life fixed tangible assets: 8 years;</p> <p>(e) fixed intangible</p>	
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<p>2. Second-hand buildings, second-hand long-life tangible assets and second-hand intangible assets shall be depreciated in accordance with the following rules:</p> <p>(a) a second-hand building shall be depreciated over 40 years unless the taxpayer demonstrates that</p>	<p><u>years.]</u></p> <p>d) <u>short-life fixed tangible assets: 4 years;</u></p> <p><u>[Short-life fixed tangible assets to be defined as fixed tangible assets with a useful life of 4 years or more and less than 8 years.]</u></p> <p>e) intangible assets: the period for which the asset enjoys legal protection or for which the right is granted or, if that period cannot be determined, 15 years.</p> <p>2. Second-hand buildings <u>and other immoveable property,</u> second-hand long-life <u>fixed</u> tangible assets, <u>second-hand medium-life fixed tangible assets, second-hand short-life fixed tangible assets</u> and second-hand intangible assets shall be depreciated in accordance with the following rules:</p> <p>a) a second-hand building <u>or other immoveable property</u> shall be depreciated over <u>25 years in the case of industrial buildings or</u></p>	<p>assets: the period for which the asset enjoys legal protection or for which the right has been granted or, where that period cannot be determined, 15 years.</p> <p>2. Second-hand buildings and other types of immovable property, second-hand long-life fixed tangible assets, second-hand medium-life fixed tangible assets and second-hand fixed intangible assets shall be depreciated in accordance with the following rules:</p> <p>(a) second-hand commercial, office or other buildings, as well as any other type of immovable property in use for</p>	
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<p>the estimated remaining useful life of the building is shorter than 40 years, in which case it shall be depreciated over that shorter period;</p> <p>(b) a second-hand long-life tangible asset shall be depreciated over 15 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 15 years, in which case it shall be depreciated over that shorter period;</p> <p>(c) a second-hand intangible asset shall</p>	<p>structures, 40 years unless the taxpayer demonstrates that the estimated remaining useful life of the <u>asset building</u> is shorter than 2540 years, in which case it shall be depreciated over that shorter period;</p> <p>b) <u>a second-hand building or other immoveable property shall be depreciated over 40 years, in the case of commercial, office, other buildings and other immoveable property in use for the business unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 40 years, in which case it shall be depreciated over that shorter period;</u></p> <p>c) (b) a second-hand long-life <u>fixed</u> tangible asset</p>	<p>the business, with the exception of industrial buildings and structures: 40 years, , unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 40 years, in which case it shall be depreciated over that shorter period.</p> <p>(b) second-hand industrial buildings and structures: 25 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 25 years, in which case it shall be depreciated over that shorter period;</p> <p>(c) second-hand long-life fixed tangible</p>
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<p>be depreciated over 15 years, unless the remaining period for which the asset enjoys legal protection or for which the right is granted can be determined, in which case it shall be depreciated over that period.</p>	<p>shall be depreciated over 15 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 15 years, in which case it shall be depreciated over that shorter period;</p> <p>d) <u>[a second-hand medium-life fixed tangible asset shall be depreciated over 8 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 8 years, in which case it shall be depreciated over that shorter period;]</u></p> <p>e) <u>a second-hand short-life fixed tangible asset shall be depreciated over 4 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter</u></p>	<p>assets, other than the assets referred to in points (a) and (b): 15 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 15 years, in which case it shall be depreciated over that shorter period;</p> <p>(d) second-hand medium-life fixed tangible assets: 8 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 8 years, in which case it shall be depreciated over that shorter period;</p> <p>(e) second-hand fixed intangible assets: 15 years, unless the remaining period for which the asset enjoys legal protection or for which the right has</p>	
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	<p><u>than 4 years, in which case it shall be depreciated over that shorter period;</u></p> <p>f) (e) a second-hand intangible asset shall be depreciated over 15 years, unless the remaining period for which the asset enjoys legal protection or for which the right is granted can be determined, in which case it shall be depreciated over that period.</p>	<p>been granted can be determined, in which case it shall be depreciated over that period.</p>	
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<p style="text-align: center;"><i>Article 37</i> <i>Timing</i></p> <p>1. A full year's depreciation shall be deducted in the year of acquisition or entry into use, whichever comes later. No depreciation shall be deducted in the year of disposal.</p> <p>2. Where an asset is disposed of, voluntarily or involuntarily, during a tax year, its value for tax purposes and the value for tax purposes of any improvement costs incurred in relation to the asset shall be deducted from the tax base in that year. Where a fixed asset has given rise to an exceptional deduction under Article 41, the deduction under Article 20 shall be reduced to take into account the exceptional deduction already received.</p>	<p style="text-align: center;"><i>Article 37</i> <i>Timing</i></p> <p>1. A full year's depreciation shall be deducted in the year of acquisition or entry into use, whichever comes later. No depreciation shall be deducted in the year of disposal.</p> <p>2. Where an asset is disposed of, voluntarily or involuntarily, during a tax year, its value for tax purposes and the value for tax purposes of any improvement costs incurred in relation to the asset shall be deducted from the tax base in that year. Where a fixed asset has given rise to an exceptional deduction under Article 41, the deduction under Article 20 shall be reduced to take into account the exceptional deduction already received.</p>	<p style="text-align: center;"><i>Article 34</i> <i>Timing</i></p> <p>1. A full year's depreciation shall be deducted in the year of acquisition or entry into use of the fixed asset, whichever comes later. No depreciation shall be deducted in the year of disposal.</p> <p>2. The value for tax purposes of a fixed asset that is disposed of, or damaged to an extent that it can no longer be used for the business, and the value for tax purposes of any improvement costs incurred in relation to that asset, shall be deducted from the tax base in the year of the disposal or damage.</p> <p>3. Where a fixed tangible asset not subject to depreciation has given rise</p>	
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		to an exceptional decrease in value under Article 39, the deductible costs under Article 18 shall be reduced to take into account the exceptional deduction that a taxpayer has already received.	
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<p style="text-align: center;"><i>Article 38</i> <i>Rollover relief for replacement assets</i></p> <p>1. Where the proceeds from the disposal of an individually depreciable asset are to be re-invested before the end of the second tax year after the tax year in which the disposal took place in an asset used for the same or a similar purpose, the amount by which those proceeds exceed the value for tax purposes of the asset shall be deducted in the year of disposal. The depreciation base of the replacement asset shall be reduced by the same amount.</p> <p>An asset which is disposed of voluntarily must have been owned for a minimum period of three years prior to the disposal.</p>	<p style="text-align: center;"><i>Article 38</i> <i>Rollover relief for replacement assets</i></p> <p>1. Where the proceeds from the disposal, <u>including compensation for damage, of an individually depreciable asset or fixed tangible asset not subject to wear and tear and obsolescence referred to in Article 40 (a)</u> are to be re-invested before the end of the second tax year after the tax year in which the disposal took place in a <u>similar</u> asset used for the same or a similar {business} purpose, the amount by which those proceeds exceed the value for tax purposes of the asset <u>may</u> shall be deducted in the year of disposal <u>and in which case</u>. the depreciation base of the replacement asset shall be reduced by the same amount.</p> <p>An asset which is disposed of voluntarily must have been owned for a minimum period of three years prior to the disposal.</p>	<p style="text-align: center;"><i>Article 35</i> <i>Rollover relief for replacement assets</i></p> <p>1. Where the proceeds from the disposal, including compensation for damage, of an individually depreciable asset or fixed tangible asset not subject to wear and tear and obsolescence, as referred to in point (a) of Article 38, are to be re-invested in a similar asset used for the same or a similar business purpose before the end of the second tax year after the tax year in which the disposal took place, the amount by which those proceeds exceed the value for tax purposes of the asset may be deducted in the year of disposal. The depreciation base of the replacement asset shall be reduced by the same amount.</p> <p>An asset which is disposed of voluntarily must have been owned for a minimum period of three</p>	
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<p>2. The replacement asset may be purchased in the tax year prior to the disposal. If a replacement asset is not purchased before the end of the second tax year after the year in which the disposal of the asset took place, the amount deducted in the year of disposal, increased by 10%, shall be added to the tax base in the second tax year after the disposal took place.</p> <p>3. If the taxpayer leaves the group of which it is a member or ceases to apply the system provided for by this Directive within the first year, without having purchased a replacement asset, the amount deducted in the year of disposal shall be added to the tax base. If the taxpayer leaves the group or ceases to apply the system in the second year, that amount shall be increased by 10%.</p>	<p>2. The replacement asset may be purchased in the tax year prior to the disposal. If a replacement asset is not purchased before the end of the second tax year after the year in which the disposal of the asset took place, the amount deducted in the year of disposal, increased by 10%, shall be added to the tax base in the second tax year after the disposal took place.</p> <p>3. <u>I</u>f the taxpayer leaves the group of which it is a member or ceases to apply the system provided for by this Directive within the first year, without having purchased a replacement asset, the amount deducted in the year of disposal shall be added to the tax base. If the taxpayer leaves the group or ceases to apply the system in the second year, that amount shall be increased by 10%.<u>I</u></p>	<p>2. years prior to the disposal. The replacement asset referred to in paragraph 1 may be purchased in the tax year prior to the disposal. Where the replacement asset is not purchased before the end of the second tax year after the year in which the disposal of the asset took place, the amount deducted in the year of disposal, increased by 10 %, shall be added to the tax base in the second tax year after the disposal took place.</p>	
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<p><i>Article 35</i> <i>Depreciation of improvement costs</i></p> <p>Improvement costs shall be depreciated in accordance with the rules applicable to the fixed asset which has been improved as if they related to a newly acquired fixed asset.</p>	<p><i>Article 35</i> <i>Depreciation of improvement costs</i></p> <p><u>1.</u> Improvement costs shall be depreciated in accordance with the rules applicable to the fixed asset which has been improved as if they related to a newly acquired fixed asset.</p> <p><u>2.</u> <u>Where the taxpayer demonstrates that the estimated remaining useful life of an individually depreciated fixed asset is shorter than the useful life of the asset specified in Article 36(1), improvement costs shall be depreciated over that shorter period.</u></p>	<p><i>Article 36</i> <i>Depreciation of improvement costs</i></p> <p>1. Improvement costs shall be depreciated in accordance with the rules applicable to the fixed asset which has been improved as if they related to a newly acquired fixed asset. Notwithstanding this, improvement costs concerning rented immovable property shall be depreciated according to Article 32 and Article 33(2)(a).</p> <p>2. Where the taxpayer demonstrates that the estimated remaining useful life of an individually depreciated fixed asset is shorter than the useful life of the asset specified in Article 33(1), improvement costs for that asset shall be depreciated over that shorter period.</p>	
<p><i>Article 39</i> <i>Asset pool</i></p> <p>1. Fixed assets other than those referred to in Articles 36 and</p>	<p><i>Article 39</i> <i>Asset pool</i></p> <p>1. Fixed assets other than those referred to in Articles 36 and</p>	<p><i>Article 37</i> <i>Asset pool</i></p> <p>1. Fixed assets other than those referred to in</p>	

<p>40 shall be depreciated together in one asset pool at an annual rate of 25% of the depreciation base.</p> <p>2. The depreciation base of the asset pool at the end of the tax year shall be its value for tax purposes at the end of the previous year, adjusted for assets entering and leaving the pool during the current year. Adjustments shall be made in respect of acquisition, construction or improvement costs of assets (which shall be added) and the proceeds of disposal of assets and any compensation received for the loss or destruction of an asset (which shall be deducted).</p> <p>3. If the depreciation base as calculated in accordance with paragraph 2 is a negative amount, an amount shall be added, so that the depreciation base is zero. The same amount shall be added to the tax base.</p>	<p>40 shall be depreciated together in one asset pool at an annual rate of [25%] of the depreciation base.</p> <p>2. The depreciation base of the asset pool at the end of the tax year shall be its value for tax purposes at the end of the previous year, adjusted for assets entering and leaving the pool during the current year. Adjustments shall be made in respect of acquisition, construction or improvement costs of assets (which shall be added) and the proceeds of disposal of assets and any compensation received for the loss or destruction of an asset (which shall be deducted).</p> <p>3. If the depreciation base as calculated in accordance with paragraph 2 is a negative amount, an amount shall be added, so that the depreciation base is zero. The same amount shall be added to the tax base.</p>	<p>Articles 33 and 38 shall be depreciated together in one asset pool at an annual rate of 25 % of the depreciation base.</p> <p>2. The depreciation base of the asset pool at the end of a tax year shall be its value for tax purposes at the end of the preceding tax year, adjusted for assets entering and leaving the pool during the relevant tax year. Acquisition or construction costs and costs of improvement of assets shall be added to the depreciation base, whereas the proceeds of a disposal of assets and any compensation received for the loss or destruction of an asset shall be deducted.</p> <p>3. Where the depreciation base as calculated in accordance with paragraph 2 is negative, an amount shall be added until the depreciation base is zero. The same amount shall be added to the tax base.</p>	
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<p><i>Article 40</i> <i>Assets not subject to depreciation</i></p> <p>The following assets shall not be subject to depreciation:</p> <p>(a) fixed tangible assets not subject to wear and tear and obsolescence such as land, fine art, antiques, or jewellery;</p> <p>(b) financial assets.</p>	<p><i>Article 40</i> <i>Assets not subject to depreciation</i></p> <p>The following assets shall not be subject to depreciation:</p> <p>a) fixed tangible assets not subject to wear and tear and obsolescence such as land, fine art, antiques, or jewellery;</p> <p>b) financial assets.</p>	<p><i>Article 38</i> <i>Assets not subject to depreciation</i></p> <p>The following assets shall not be subject to depreciation:</p> <p>(a) fixed tangible assets not subject to wear and tear and obsolescence such as land, fine art, antiques, or jewellery;</p> <p>(b) financial assets.</p>	
<p><i>Article 41</i> <i>Exceptional depreciation</i></p> <p>1. If, in exceptional circumstances, a taxpayer demonstrates that the value of a fixed asset not subject to depreciation has permanently decreased at the end of a tax year, it may deduct an amount equal to the decrease in value. However, no such deduction may be made in respect of assets the proceeds from the disposal of which are exempt.</p>	<p><i>Article 41</i> <i>Exceptional depreciation</i></p> <p>1. If, in exceptional circumstances, a taxpayer demonstrates that the value of a fixed <u>tangible</u> asset not subject to depreciation has permanently decreased at the end of a tax year <u>due to force majeure or criminal activity by third parties</u>, it may deduct an amount equal to the decrease in value. However, no such deduction may be made in respect of assets the proceeds from the disposal of which are exempt.</p>	<p><i>Article 39</i> <i>Exceptional decrease in value</i></p> <p>1. A taxpayer who demonstrates that a fixed tangible asset not subject to depreciation, as referred to in point (a) of Article 38, has decreased in value at the end of a tax year due to force majeure or criminal activities by third parties may deduct from the tax base an amount equal to that decrease in value. However, no such deduction may be made in respect of assets the proceeds from the disposal of which are exempt from taxation.</p>	

2.	If the value of an asset which has been subject to such exceptional depreciation in a previous tax year subsequently increases, an amount equivalent to the increase shall be added to the tax base in the year in which the increase takes place. However, any such addition or additions, taken together, shall not exceed the amount of the deduction originally granted.	2.	If the value of an asset which has been subject to such exceptional depreciation in a previous tax year subsequently increases, an amount equivalent to the increase shall be added to the tax base in the year in which the increase takes place. However, any such addition or additions, taken together, shall not exceed the amount of the deduction originally granted.†	2.	Where the value of an asset that, in a preceding tax year, has been subject to depreciation as referred to in paragraph 1 subsequently increases, an amount equivalent to that increase shall be added to the tax base in the year in which that increase takes place. However, any such addition or additions, taken together, shall not exceed the amount of the deduction originally granted.	
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<p><i>Article 42</i> <i>Precision of categories of fixed assets</i></p> <p>The Commission may adopt delegated acts in accordance with Article 127 and subject to the conditions of Articles 128, 129 and 130 in order to define more precisely the categories of fixed assets referred to in this Chapter.</p>	<p><i>[Article 42</i> <i>Precision of categories of fixed assets</i></p> <p>The Commission may adopt delegated acts in accordance with Article 127 and subject to the conditions of Articles 128, 129 and 130 in order to define more precisely the categories of fixed assets referred to in this Chapter.]</p>	<p><i>Article 40</i> <i>Precision of categories of fixed assets</i></p> <p>The Commission shall be empowered to adopt delegated acts in accordance with Article 66 to define more precisely the categories of fixed assets referred to in this Chapter.</p>	
<p>CHAPTER VII LOSSES</p> <p><i>Article 43</i> <i>Losses</i></p> <p>1. A loss incurred by a taxpayer or a permanent establishment of a non-resident taxpayer in a fiscal year may be deducted in subsequent tax years, unless otherwise provided by this Directive.</p> <p>2. A reduction of the tax base on account of losses from previous tax years shall not result in a negative amount.</p>	<p>CHAPTER VII LOSSES</p> <p><i>Article 43</i> <i>Losses</i></p> <p>1. A loss incurred by a taxpayer or a permanent establishment of a non-resident taxpayer in a tax <u>fixed</u> year may be <u>carried forward and</u> deducted in subsequent tax years, unless otherwise provided by this Directive.</p> <p>2. <u>In a tax year, losses carried forward may be deducted up to a maximum of [EUR X million] for a single taxpayer and any losses exceeding this amount shall only be deducted in an</u></p>	<p>CHAPTER V LOSSES</p> <p><i>Article 41</i> <i>Losses</i></p> <p>1. Losses incurred in a tax year by a resident taxpayer or a permanent establishment of a non-resident taxpayer may be carried forward and deducted in subsequent tax years, unless otherwise provided by this Directive.</p> <p>2. A reduction of the tax base as a result of considering losses from previous tax years shall not result in a negative amount.</p>	

<p>3. The oldest losses shall be used first.</p>	<p>amount equal to [X%] of the remaining tax base.] only be deducted up to [x] % of the tax base.</p> <p>3. 2. A reduction of the tax base on account of losses from previous tax years shall not result in a negative amount. Carry-forward shall be terminated if the taxpayer or a permanent establishment of a non-resident taxpayer ceases the activities due to which the losses were incurred, except for the cases where the taxpayer or a permanent establishment of a non-resident taxpayer ceases the activities for reasons beyond its control.</p>	<p>3. Losses incurred by a resident taxpayer or by a permanent establishment of a non-resident taxpayer in previous years shall not be deducted where all of the following conditions are met:</p> <p>(a) another company acquires a participation in the taxpayer as a result of which the acquired taxpayer becomes a qualifying subsidiary of the acquirer as referred to in Article 3;</p> <p>(b) there is a major change of activity of the acquired taxpayer, which means that the acquired taxpayer discontinues a certain activity which accounted for more than [60 %] of its turnover in the previous tax year or</p>	
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		embarks on new activities which amount to more than [60 %] of its turnover in the tax year of their introduction or the following tax year.	
	4. 3. The oldest losses shall be used first.	4. The oldest losses shall be deducted first.	
		<p><i>Article 42</i> <i>Loss relief and recapture</i></p> <p>1. A resident taxpayer that is still profitable after having deducted its own losses pursuant to Article 41 may additionally deduct losses incurred, in the same tax year, by its immediate qualifying subsidiaries, as referred to in Article 3(1), or by permanent establishment(s) situated in other Member States. This loss relief shall be given for a limited period of time in accordance with paragraphs 3 and 4 of this Article.</p> <p>2. The deduction shall be in proportion to the holding of the resident taxpayer in its qualifying subsidiaries</p>	

		<p>as referred to in Article 3(1) and full for permanent establishments. In no case shall the reduction of the tax base of the resident taxpayer result in a negative amount.</p> <p>3. The resident taxpayer shall add back to its tax base, up to the amount previously deducted as a loss, any subsequent profits made by its qualifying subsidiaries as referred to in Article 3(1) or by its permanent establishments.</p> <p>4. Losses deducted pursuant to paragraphs 1 and 2 shall automatically be reincorporated into the tax base of the resident taxpayer in any of the following circumstances:</p> <p>(a) where, at the end of the fifth tax year after the losses became deductible, no profit has been reincorporated or the reincorporated profits do not correspond to the full amount of losses deducted;</p>	
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		<p>(b) where the qualifying subsidiary as referred to in Article 3(1) is sold, wound up or transformed into a permanent establishment;</p> <p>(c) where the permanent establishment is sold, wound up or transformed into a subsidiary;</p> <p>(d) where the parent company no longer fulfils the requirements of Article 3(1).</p>	
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