

Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (recast)

Article 3

- 1 For the purposes of applying this Directive:
 - a the status of parent company shall be attributed:
 - (i) at least to a company of a Member State which fulfils the conditions set out in Article 2 and has a minimum holding of 10 % in the capital of a company of another Member State fulfilling the same conditions;
 - (ii) under the same conditions, to a company of a Member State which has a minimum holding of 10 % in the capital of a company of the same Member State, held in whole or in part by a permanent establishment of the former company situated in another Member State;
 - b ‘subsidiary’ means that company the capital of which includes the holding referred to in point (a).
- 2 By way of derogation from paragraph 1, Member States shall have the option of:
 - a replacing, by means of bilateral agreement, the criterion of a holding in the capital by that of a holding of voting rights;
 - b not applying this Directive to companies of that Member State, which do not maintain for an uninterrupted period of at least 2 years holdings qualifying them as parent companies, or to those of their companies in which a company of another Member State does not maintain such a holding for an uninterrupted period of at least 2 years.