



# International tax policy

**Tashkent state university of economics**

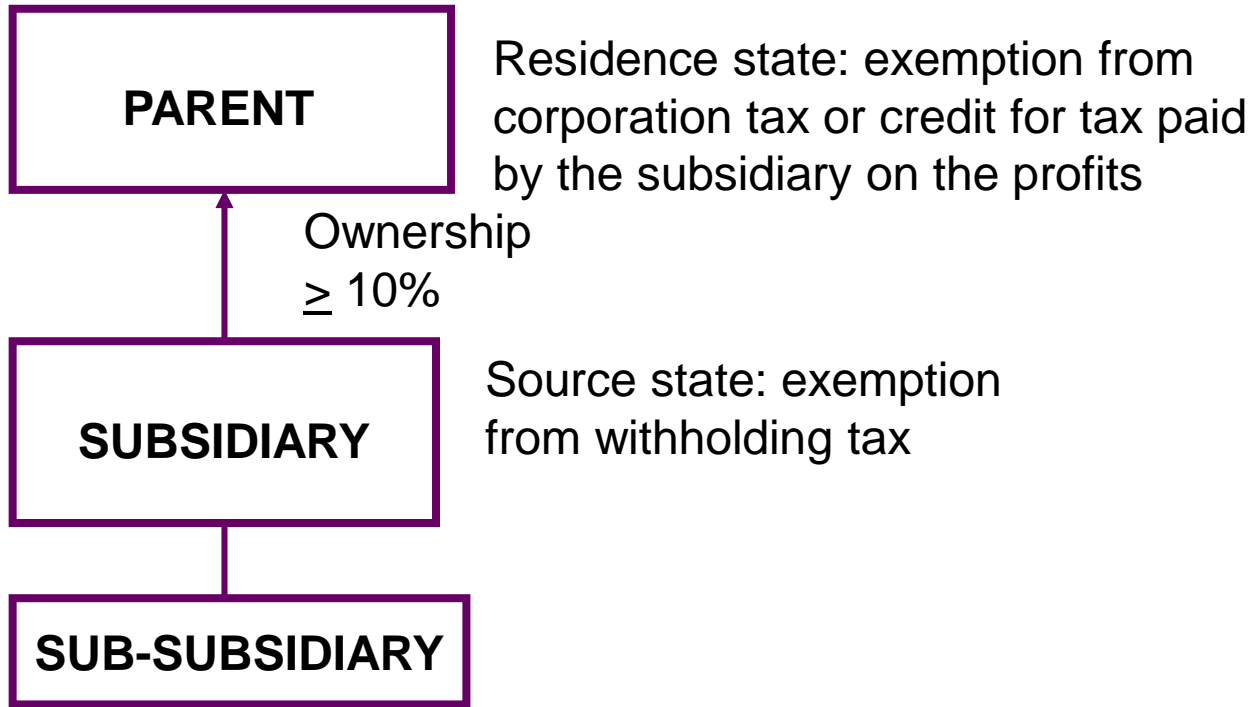
*Lecture 10*



## EU Directives on Dividends, Interest and Royalties

- ◎ The right to levy tax on dividends, interest and royalties within the EU is limited under the application of...
- ◎ Parent Subsidiary Directive:
  - 0% withholding tax on dividends between qualifying companies (minimum holding requirement 10 %) in the source state
  - 0 % income tax on dividends between qualifying companies (minimum holding requirement 10 %) in the residence state

# Parent-Subsidiary Directive



# Parent-Subsidiary Directive

- ◎ A Qualifying Company (Art 2):
  - 1) company form listed in the Annex: limited liability companies (*Finland: oy/ab, osuuskunta..*)
  - 2) to be resident for tax purposes in the member state, and
  - 3) liability to corporation tax (*finnish: yhteisöjen tulovero*)
- ◎ Participation threshold  $\geq 10\%$
- ◎ Option to min. holding period of 2 years
  - Finland: no minimum period

## Implementation in Finland: source state

- ◎ Sec. 3(6) of the Act on Taxation of Income of a Person Subject to Limited Tax Liability (*Laki rajoitetusti verovelvollisen tulon verottamisesta*)
- ◎ No withholding tax on dividend if paid to a company within the meaning of Art 2 of the Parent-Subsidiary Directive provided that the recipient holds directly at least 10 % of the capital in the distributing company

## Implementation in Finland: residence state

- ◎ Sec. 6a of the Business Income Tax Act (*elinkeinoverolaki*)
- ◎ Dividend received by a corporation is not taxable if received either from a domestic corporation or from a foreign company within the meaning of Art 2 of the EU Parent-Subsidiary Directive
  - No ownership threshold



Anti avoidance amendments to Parent-Subsidiary Directive (2016  
→)

◎ Council Directives 2014/86/EU and  
2015/121/EU

◎ The residence state must tax dividends to  
the extent such dividends are deductible by  
the subsidiary

→ target: hybrid structures leading to  
double non- taxation



## Anti avoidance amendments to Parent-Subsidiary Directive (2016 →)

### © Introduction of a GAAR (general anti-avoidance rule)

- Member States shall not grant the benefits of this Directive to an arrangement or a series of arrangements which, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine having regard to all relevant facts and circumstances.
- An arrangement may comprise more than one step or part  
For the purposes of paragraph 2, an arrangement or a series of arrangements shall be regarded as not genuine to the extent that they are not put into place for valid commercial reasons which reflect economic reality.

## EU Directives on Dividends, Interest and Royalties

- ◎ Interest-Royalty Directive paid between associated companies:
  - 0% withholding tax on interest and royalty payments between qualifying companies (minimum holding requirement 25 %)

## Other EU Directives on direct taxation

### ◎ Merger Directive

- Facilitates tax neutral cross-border company reorganizations (e.g. merger) within the EU
- Finland: implementation covers both domestic and cross-border reorganizations

### ◎ Mutual Assistance Directive, Recovery Assistance Directive, Savings Directive

- Facilitate better assessment and enforcement of taxation within the EU by means of e.g. exchange of information and co-operation between tax authorities of EU member states

## EU tax law

- ◎ Positive integration by way of non-binding measures ("soft law")
  - Commission recommendations and communications on how the member states should interpret or amend their domestic tax laws to be in compliance with EU tax law
    - ◎ E.g. COM 2007(785) The application of anti-abuse measures in the area of direct taxation - within the EU and in relation to third countries



## EU tax law

# © Negative integration through EU primary law

- Fundamental freedoms of the TFEU
- State aid rules of the TFEU
- Actors: CJEU, national courts & EU Commission