TABLE OF FIGURES

Figure 1: First sub-type of merger	69
Figure 2: Second sub-type of merger	73
Figure 3:Third sub-type of merger	73
Figure 4: Split-up to existing companies	75
Figure 5: Split-up to new companies	75
Figure 6: Split-off to existing companies	76
Figure 7: Split-off to new companies	76
Figure 8: Transfer of Assets	78
Figure 9: Exchanges of Shares	80
Figure 10:Transfer of the registered offic	80
Figure 11: Branch incorporation into a subsidiary	82
Figure 12: Example 1	122
Figure 13: Example 2	123
Figure 14: Example 3	124
Figure 15: Example 4	189
Figure 16: Example 5-A	197
Figure 17: Example 5-B	198
Figure 18: Example 6	199
Figure 19: Example 7	200

TABLE OF CONTENTS

FOREWORD	9
INTRODUCTORY NOTE	11
ACKNOWLEDGMENTS	13
ABSTRACT	15
SUMÁRIO	17
METHODOLOGY	19
LIST OF ABBREVIATIONS	21
INTRODUCTION	23
1. Background	23
2. Scope of the thesis	25
3. Structure	26
CHAPTER ONE	29
1. The Importance of Abuse	29
2. Terminology	34
2.1. Tax mitigation	36
2.2. Tax evasion and tax fraud	38
2.3. Tax Avoidance	40
2.4. Terminological issues in EU Law	44
3. Limitations on the domestic anti-abuse provisions within	
the Internal Market	49

С	HAP	TER TWO	59
1.	Preli	minary remarks	59
2.	Pers	onal Scope	65
3.	Obj	ective Scope	67
		Mergers	68
	3.2.	Divisions and Partial Divisions	74
	3.3.	Transfer of Assets	77
	3.4.	Exchange of shares	79
	3.5.	Transfer of the registered offic	80
	3.6.	Branch incorporation into a subsidiary	81
		The option of paying consideration with cash	82
	3.8.	The permanent establishment requirement	84
	3.9.	The branch of activity requirement	86
4.	The	Tax Deferral System	87
	4.1.	Commercial reasons underlying the qualifying	
		transactions	88
		4.1.1. Acquisitive transactions	89
		4.1.2. Divisive transactions	91
	4.2.	Purpose of the tax deferral regime	92
	4.3.	Requirements for the tax deferral system	97
		4.3.1. Taxation at the level of the companies involved	97
		4.3.2. Taxation at the level of the shareholders	100
		4.3.3. The special case of transparent entities	102
С	НАР	TER THREE	103
		Case-Law on anti-abuse rules under the Merger	100
-•	-	ective	103
2		(mostly) negative approach to the concept of 'valid	100
		mercial reasons'	114
3		be of article 15 (1) (a) of the Merger Directive	119
		substantive meaning of 'valid commercial reasons'	134
••		The (attempting) positive approach of the ECJ	134
		At what level should the valid commercial reasons	101
		of the transaction be verified	138
	1 3	When should valid commercial reasons he varified	140

4.4. How has the concept of valid commercial reasons been applied domestically?	142
4.5. General criteria for the finding of 'valid commercial	172
reasons'4.6. Presumptions of lack of 'valid commercial reasons'	159
in qualifying transactions	165
4.6.1. Continuity of activity requirement	166
4.6.2. Continuity of interest requirement	171
4.6.3. Criteria for presumptions of lack of 'valid	1,1
commercial reasons'	177
CHAPTER FOUR	187
1. Partial neutrality	187
2. Connection with holding periods of the Parent-Subsidiary	107
Directive	193
3. Are Member-States entitled to apply irrebuttable	1/3
presumptions of abuse?	201
4. The next steps towards the (re)definition of the concep	201
of abuse	205
CONCLUSIONS	211
BIBLIOGRAPHY	221
OTHER DOCUMENTATION	229
EUROPEAN COURT OF JUSTICE CASE-LAW	233
PORTUGUESE CASE-LAW	237
TABLE OF FIGURES	239