

**UNICE'S COMMENTS**

**ON THE EUROPEAN COMMISSION CONSULTATION DOCUMENT  
"THE APPLICATION OF INTERNATIONAL ACCOUNTING STANDARDS (IAS) IN 2005  
AND THE IMPLICATIONS FOR THE INTRODUCTION OF A CONSOLIDATED TAX BASE  
FOR COMPANIES' EU-WIDE ACTIVITIES"**

**1. General remarks**

UNICE welcomes the initiative taken by the Commission to solicit comments on this important topic. The Commission paper provides an excellent introduction to the development of a common consolidated tax base for companies in Europe. UNICE fully endorses the key elements of such tax base that the Commission identifies:

- Cross-border mergers or asset transfers no longer involve exit charges or taxation of capital gains (but it should be studied how Member States can maintain their historical claim);
- There will (and needs to) be a cross-border consolidation of losses;
- The consolidated tax base needs to be allocated to the individual Member States based on an agreed system.

UNICE noticed that there seemed to be some confusion between (a) the use of IAS to develop a common consolidated tax base and (b) the impact of the introduction of IAS itself on the taxable base in those Member States that have a great degree of dependency between financial accounts and tax accounts.

UNICE wishes to stress that this paper only deals with the first issue, the discussion as to whether IAS can be a starting point in developing a consolidated taxable base. The second needs to be addressed at the national level and is not immediately relevant for the first. It seems advantageous to use IAS as a starting point to develop a common consolidated tax base, provided that a number of conditions, described below, are met.

It is important to agree on what "starting point" actually means. In the context of this paper, starting point refers to the first draft of the consolidated tax base and not to a continuous interplay between IAS and the tax base. In UNICE's opinion IAS could be useful to commence the development of a consolidated tax base as it provides a starting point that is both politically neutral and reasonably well developed. From there on, however, UNICE foresees that both IAS and the consolidated tax base will evolve independently of each other. Ideally, reconciliation between the two would remain possible going forward, but this is of much less importance to creating an appropriate tax structure for European companies.

Owing to the different expectations that different users have of the accounts, not all accounting standards can be used in developing a consolidated tax base. Therefore, it is key to determine which standards can be used as a guiding principle for tax purposes. The next step in the development of a common consolidated tax base should certainly address this key issue.

In that light UNICE welcomes the initiative taken by the Commission and strongly recommends that a working group be formed with representatives of Member States and the Business Community to discuss this issue further. UNICE would like to participate in the work of such group.

## **2. General remarks on the use of IAS for tax purposes**

The fundamental issue raised in trying to use the IAS rules as a basis for taxation is the timing of the recognition of events and changes in value. The “fair value approach to accounting” is a fundamental departure from current tax practice. UNICE opposes a switch to this concept if this were the result of adopting IAS as the starting point for developing tax accounting rules.

UNICE would like to stress that the generally applicable basic principles of tax accounting have evolved over many decades. In this respect, the realisation criterion is one of the most essential principles together with the principle of prudence. Unrealised gains are uncertain and therefore not suited for being part of the taxable base.

UNICE notes that there could be tension between the nature of IAS, focussed on consolidation of the group’s results, and that of taxation, which eventually requires the allocation of those results to individual Member States through the use of an allocation key. The IAS accounts and/or the taxable base calculation should therefore provide the information needed to apply such a key. This needs to be taken into account when developing a common consolidated tax base.

## **3. Remarks concerning the Commission’s questions**

In the consultation, a number of questions were raised. UNICE would like to make the following remarks to these questions.

- 1). The current endorsement procedure of IAS provides Member States with the necessary level of ‘control’ over accounting standards in the EU. Could it be extended or supplemented to provide sufficient taxation input for IAS to form the starting point for the tax base? (Section 3.1)

The current IAS endorsement process does provide member states with input possibilities based on QMV and not based on unanimity. This would be novel for adopting tax rules. The states judge whether these possibilities are sufficient in view of the predominant role of the IASB. However, for the business community the process does not result in satisfactory levels of control over the processes, let alone outcome. Consequently, a procedure for new tax rules should be established that allows for sufficient business input that cannot be set aside by other non-business oriented organisations.

- 2) Are IAS too ‘investor orientated’ for the tax administration to use them as the primary source for determining the taxable base? To what extent do the IAS principles of materiality, fair value and ‘substance over form’ conflict with taxation principles? Could any conflict be resolved by the provision of supplementary supporting schedules provided specifically for taxation purposes? (Section 3.2)

IAS is developed to provide a response to basically two demands:

- a company ought to provide a more meaningful statement on its general and specific well-being; and
- across the globe, companies should use the same system providing a platform from which to compare companies in different countries and hemispheres.

Taxation principles differ considerably from those of the IAS and in particular the principles of "materiality", "fair value" and "substance over form" are not always respected and not in line with the generally accepted principles for taxation.

3) If only a limited number of companies uses IAS is it appropriate to design a common tax base around IAS? (Section 3.3)

It is questionable how many companies will actually use IAS. The number of 7000 listed companies does not mean that only 7000 companies will use IAS. It would be desirable that all companies in an EU group could use IAS to avoid running two different accounting systems. This would increase the number of users significantly. However, for the moment IAS is not designed as a replacement for local statutory accounts for single enterprises.

4) Which of the two approaches is preferable – adjusting IAS consolidated accounts to arrive at a consolidated tax base; or creating a tax specific method of consolidating the accounts of individual subsidiaries? (Section 3.4)

The end product counts, in this case an optional common consolidated tax system resulting in a consolidated tax base. In the event local statutory accounts are no longer required, a consolidated tax base may be cost efficient. However, if local statutory accounts are still required after introduction of IAS, then the cost advantage will probably disappear.

5) Is 'dependency' sustainable if a common tax base is adopted across the EU? Can the additional features, currently secured via dependency, be provided without requiring dependency? (Section 3.5)

The concept of dependency has steadily been eroded over a number of years and may well diminish further as a consequence of the introduction of IAS. However, dependency is still a relevant factor in the debate in many (civil law) countries.

6) If using IAS as a starting point for a common base is too ambitious, does the existing framework for introducing IAS provide a useful example for how specific tax Recommendations could be introduced? Should such Recommendations seek to define only the tax base itself or seek to explain how to adjust IAS based figures to arrive at the recommended tax base? (Section 3.6)

See also response to Q3.1. A framework that allows the voice of the European business community to be heard and is considered as relevant is a prerequisite for any process that attempts to draft a pan-EU set of tax rules. On the last question, what counts is the result; i.e. unambiguous and clear rules that work.

7) Is the SE an appropriate corporate vehicle for establishing a pilot project for a common tax base based on IAS? If yes, what additional practical steps would be required to implement this? (Section 3.7)

Absent a proper tax system for the conversion into and the running of a SE its use will be very limited. One way to redress this is to attach a common consolidated tax base to such a vehicle. It is recommended that the SE be used as a pilot for the development of a consolidated tax base in a relatively small-scale experiment.

UNICE suggests that such a pilot project runs for a limited number of years, is optional and can be extended if successful. In the event that such a pilot is not successful, a return to prior status without tax consequences is a *conditio sine qua non*. The latter seems indispensable if volunteering companies are to be found.

#### **4. Conclusions**

UNICE looks forward to working closely with the Commission and Council on the development of a common consolidated taxable base, which would remove most of the tax obstacles to European business that the Commission has identified. It is beyond doubt that corporate income taxation plays an essential role in making the Union the most competitive economy in the world. UNICE is very pleased with and fully supports the Commission's initiatives following up on its Communication on the future of company taxation in Europe of which Common (consolidated) Base Taxation is an integral part.

UNICE also looks forward to working with the Commission on further research on the use of IAS as starting point of a new set of EU tax rules.

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