

Public consultation on the Re-launch of the **Common Consolidated Corporate Tax Base** (CCCTB)

Fields marked with * are mandatory.

1

Introduction

Please note:

In order to ensure a fair and transparent consultation process only responses received through our online questionnaire will be taken into account and included in the report summarising the responses.

Should you have a problem completing this questionnaire or if you require particular assistance, please contact:

TAXUD-CCCTB@ec.europa.eu.

For more information on the Common Consolidated Corporate Tax Base please follow this [link](#).

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1.1

Background

Europe's priorities today are to restore growth and promote investment and job creation within a fairer and deeper Single Market. Europe needs a framework for fair and efficient taxation of corporate profits, in order to distribute the tax burden equitably, to contribute to the sustainability of public finances, to promote sustainable growth and investment, to diversify funding sources of the European economy, and to strengthen the competitiveness of Europe's economy.

Corporate taxation is an essential element of a fair and efficient tax system. It is an important source of revenue for Member States and an important factor in influencing companies' business decisions, for example on investments and research & development (R&D) activities.

Recent developments have shed light on the widely shared view that the current rules for corporate taxation no longer fit the modern context. Corporate income is taxed at national level, but the economic environment has become more globalised, mobile and digital. Business models and corporate structures have become more complex, making it easier to shift profits.

For instance, corporate tax rules which are conceived to exclusively function in a domestic framework may increasingly run the risk of leading to market distortions if taxpayers can easily circumvent them when they operate internationally. These distortions often derive from differences in tax laws and take the shape of aggressive tax planning practices whereby taxpayers can take advantage of disparities between national tax systems to derive tax benefits against the spirit of the law. Such a playing field no longer contributes to 'healthy' tax competition.

Given that Europe's priority today is to promote sustainable growth and investment within a fairer and better integrated Single Market, a new framework is needed for a fair and efficient taxation of corporate profits.

1.2

The Action Plan for a Fairer and Efficient Corporate Tax System

On 17th June 2015, the Commission published an Action Plan for a Fairer and Efficient Corporate Tax System and proposed 5 key areas for action in the coming months ([COM \(2015\) 302](#)). The Action Plan, which takes the form of a Communication, contributes to the aim of establishing a system of corporate taxation whereby business profits are taxed in the jurisdiction where value is actually created. The re-launch of the CCCTB lies at the heart of the Action Plan. It is presented as an overarching objective which could be an extremely effective tool for meeting the objectives of fairer and more efficient taxation. It features as the main tool for fighting against aggressive tax planning, incorporating recent international developments, attributing income where the value is created. Specifically:

1. A set of common EU rules for the calculation of the corporate tax base would in practice decrease significantly aggressive tax planning opportunities within the EU dimension of the group.
2. Considering that the current transfer pricing rules have not proved very effective in tackling profit shifting over the last decades, a system of cross-border tax consolidation, as provided for in the CCCTB, would remove the benefits of profit shifting within the consolidated group across the Single Market.
3. The possibilities of shifting income towards the Member States with the lowest tax rates would be more limited under the CCCTB than the current national principles for allocating and computing profits through methods largely based on transfer pricing. This is mainly due to the fact that the apportionment factors have been devised to reflect the real economy. On the same note, within a consolidated group, there is no risk of double taxation or double non-taxation caused by mismatches amongst national rules and through the interaction of tax treaties.
4. The existence of common rules for computing the tax base would render tax competition more transparent in the EU because this would inevitably focus on the levels of (statutory) tax rates. As a result, there would be less room for tax planning.
5. The CCCTB would contain its own defence against tax abuse (e.g. Controlled Foreign Company (CFC) legislation, General Anti-Avoidance Rule (GAAR), etc.). This is particularly important when it comes to protecting the group's tax base against erosion in dealings with entities outside the consolidated group.

6. In defending the Single Market against aggressive tax planning, the CCCTB would allow Member States to implement a common approach vis-à-vis third countries.
7. While removing distortions caused by aggressive tax planning, the CCCTB would also improve the environment for businesses in the EU, as it would allow companies operating in the EU to deal with a single set of common corporate tax rules within the EU. This would represent a significant simplification and would reduce compliance costs as a whole.

The Action Plan calls for a renewed approach to the pending proposal whereby the main amendments will be the following:

- Firstly, the re-launched CCCTB will be a mandatory system, which should make it more robust against aggressive tax planning practices.
- Secondly, it will be deployed in 2 steps because the current proposal is too vast to agree in one go; efforts will first concentrate on agreeing the rules for a common tax base, and consolidation will be left to be adopted at a later stage.

In practical terms, the Commission is planning to table two new Proposals: the first instrument will lay down the provisions for a Common Corporate Tax Base (CCTB) whilst the second will add the elements related to consolidation (i.e. CCCTB). Once this new legislative framework (henceforth referred to as CCTB/CCCTB) has been adopted by the Commission, the currently pending proposal will be repealed.

There is no doubt that a fully-fledged CCCTB would make a major difference in reinforcing the link between taxation and the jurisdiction where profits are generated. Yet, it is clear that it would take time to reach agreement on such an extensive piece of legislation. Bearing this in mind, the Action Plan suggests that Member States continue working on some international aspects of the common base which are linked to the OECD project on Base Erosion and Profit Shifting (BEPS) while the 're-launch' proposals are under preparation. According to the Action Plan, agreement to convert these BEPS-related elements into legally binding provisions should be achieved within 12 months.

The fully-fledged CCCTB would offer cross-border loss relief within the group as an automatic outcome of consolidating the tax bases of two or more group members. To compensate for the absence of consolidation in the first step (CCTB), the announced initiative to re-launch the CCCTB is planned to include enacting a facility for giving temporary cross-border loss relief. According to this, groups would be able to set off their profits in a Member State against losses incurred in another Member State until the loss-making group member goes back into making profits. This would remove a major tax obstacle for businesses.

A new impact assessment is being prepared to assess the impacts of the CCCTB; it is envisaged to build on and refine the previous economic analysis. The impact assessment will, in particular, analyse separately the CCTB and CCCTB, i.e. a corporate tax system without and with consolidation. In addition, the analysis will be expanded to take into account the effects anticipated through certain new developments, such as addressing debt bias in corporate taxation and further promoting R&D.

1.3

Objectives of this consultation

The Commission has shown its strong commitment for fairer corporate taxation in its Action Plan of 17th June 2015. Consulting the public is one of the major steps in the process of proposing legislation

in the EU. This consultation will help the Commission gather information and analyse the necessary evidence, in order to determine possible options for attaining the objectives of the re-launch of the CCCTB.

This consultation seeks to gather views in particular on the following:

- To what extent the CCCTB could function as an effective tool against aggressive tax planning, while contributing to a favourable investment climate.
- Which criteria should determine the companies subject to the rules of a mandatory CCTB/CCCTB.
- Whether companies not subject to the mandatory CCTB/CCCTB (i.e. those which do not fulfil the conditions on which the CCTB/CCCTB becomes mandatory) should be given the possibility to opt for applying the common rules.
- Whether the staged approach, as announced in the Action Plan, whereby priority will be given to agreeing the tax base before moving to consolidation, would be preferable, especially if one considered that the currently pending CCCTB proposal is an extensive piece of legislation on which progress has been very slow.
- Whether, in the short-term, it would be useful to agree common rules for implementing certain international BEPS-related aspects of the common tax base based on the current proposal until the Commission adopts the new (revised) CCTB/CCCTB proposal.
- Which more detailed parts of the common tax base should be reviewed.
- Whether and how the issue of debt-equity tax bias should be addressed. Corporate tax systems usually favour debt over equity by allowing the deductibility of the cost of debt only. Such debt bias could be addressed either through tax deductions for costs of both equity and debt financing or neither source of financing could benefit from tax deductions (Details about solutions are discussed in this [Taxation Working Paper](#)).
- Which types of rules would best foster R&D activity. The vast majority of Member States and other advanced economies offer fiscal incentives for expenses on R&D. Their design differs across countries, for example in how the incentive is applied and what type of expenditure is covered, e.g. salaries of researchers, R&D equipment and other costs (A recent [study on R&D tax incentives](#) commissioned by DGs TAXUD and GROW compares design of R&D tax incentives across countries).
- Whether a cross-border loss relief mechanism aimed to balance out the absence of the benefits of consolidation during the first step (CCTB) would promote business interest and support for the CCCTB.

Respondents are encouraged to propose additional relevant items if they wish

1.4

Glossary

- **Aggressive tax planning** (see also: Tax planning):
In the Commission Recommendation on aggressive tax planning (C(2012) 8806 final), aggressive tax planning is defined as “taking advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing tax liability. Aggressive tax planning can take a multitude of forms. Its consequences include double deductions (e.g. the same loss is deducted both in the state of source and residence) and double non-taxation (e.g. income which is not taxed in the source state is exempt in the state of residence)”.

- **Allowance for Corporate Equity (ACE):**
The term refers to a corporate tax system where interest payments and the return on equity can both be deducted from the corporate income tax base (taxable profits). It equalises the tax treatment of debt and equity finance at the corporate level.
- **Base Erosion and Profit Shifting (BEPS Project):**
Tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid. The OECD has developed specific actions to give countries the tools they need to ensure that profits are taxed where economic activities generating the profits are performed and where value is created, while at the same time giving enterprises greater certainty by reducing disputes over the application of international tax rules, and standardising requirements.
- **Common Consolidated Corporate Tax Base (CCCTB):**
The term refers to the corporate tax system that the Commission put forward in the form of a Proposal for a Council Directive (COM(2011) 121) on 16th March 2011. The system consists of corporate tax rules designed to apply across the EU and allow companies and corporate groups to use one set of common rules for computing their tax bases in the Member States where they maintain a taxable presence. Tax consolidation is only relevant to corporate groups and it means that the tax results of all group members are pooled together, which results in the automatic offset of cross-border losses within the group. In addition, each group member's taxable share is determined by applying a formula which apportions the consolidated base to the eligible group members on the basis of three equally weighted factors, i.e. labour, assets and sales (by destination).
- **Common Corporate Tax Base (CCTB):**
The terms refers to step 1 of the CCCTB, according to the Commission's Action Plan of 17th June 2015, which comprises the common corporate tax rules for computing the tax base but does not include the element of tax consolidation.
- **Comprehensive Business Income Tax (CBIT):**
The term refers to a corporate tax system where neither interest payments nor the return on equity can be deducted from corporate profits, and are thus both fully subject to corporate income tax. It equalises the tax treatment of debt and equity finance at the corporate level.
- **Cost of Capital Allowance (COCA):**
The term refers to a corporate tax system where the cost for both debt and equity finance is captured by a notional allowance which is deductible from the corporate tax base; similarly, at the investor's level, the income tax base increases by a notional return on the investments, which corresponds to the notional allowance and can be taxable. The amount of the notional allowance/return is computed as the product of the relevant assets/investments multiplied by a COCA rate. This system equalises the tax treatment of debt and equity finance at the corporate and investor level.
- **Debt-Equity Tax Bias/Debt Bias:**
It is the result of operating a corporate tax system which favours financing by debt, rather than by equity. This is achieved by treating interest payments as a tax deductible expense whilst no equivalent deduction is granted for the return on equity (mainly, dividends).
- **Hybrid Mismatches:**
This refers to the situation where, as a result of disparities amongst national laws, the same entity or financial instrument is characterized differently, as far as its tax treatment is concerned, in two or more States (e.g. an entity is treated as a partnership in one jurisdiction and as a corporation in another; a financial instrument qualifies as deductible interest in one jurisdiction and as tax

exempt dividend in the other). Taxpayers often set up arrangements to exploit such mismatches for the purpose of lowering their overall tax burden.

- **Research & Development:**

Research: all original and planned investigation undertaken with the prospect of gaining new scientific or technical knowledge and understanding.

Development: the application of research findings or other knowledge to a plan or design for the production of new or substantially improved materials, products, devices, processes, systems or services before the start of commercial production or use.

- **Tax avoidance:**

According to the OECD glossary of tax terms, tax avoidance is defined as the arrangement of a taxpayer's affairs in a way that is intended to reduce his or her tax liability and that - although the arrangement may be strictly legal - is usually in contradiction with the intent of the law it purports to follow.

- **Tax evasion:**

According to the OECD glossary of tax terms, tax evasion is defined as illegal arrangements where the liability to tax is hidden or ignored. This implies that the taxpayer pays less tax than he or she is legally obligated to pay by hiding income or information from the tax authorities.

- **Tax planning** (see also: Aggressive tax planning):

According to the OECD glossary of tax terms, tax planning is an arrangement of a person's business and/or private affairs in order to minimize tax liability.

2

Information about you

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* Are you replying as

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Business Association

* Name of your organisation

BUSINESSEUROPE

* Contact email address

m.mozteixeira@businessseurope.eu

* Is your organisation or your enterprise included in the Transparency Register?

- Yes
 No

* Please indicate your Register ID number:

3978240953-79

* Do you carry out or do you represent activities at:

- National level (your country only)
 EU level
 International level (beyond EU)
 Other

* Where are your headquarters?

Belgium

* Please indicate the field(s) of economic activity of your enterprise, or the field(s) of economic activity your organisation represents.

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(incl. fund management activities) | <input type="checkbox"/> Professional, scientific and technical activities (incl.
accounting, bookkeeping and auditing activities) |
| <input checked="" type="checkbox"/> Other | |

* If other, please specify:

100 character(s) maximum

all-sized enterprises in 34 European countries

3

Important notice on the publication of responses

- * Please note: In order to ensure a fair and transparent consultation process only responses received through our online questionnaire will be taken into account. Furthermore, the European Commission will prepare a report summarising the responses. Contributions received are thus intended for

publication on the Commission's website.

Do you agree to your contribution being published?

- Yes**, I consent to all of my answers being published **under my name**.
- Yes**, I consent to all of my answers/personal data being published **anonymously**.
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- Yes**
- No**

4

Policy directions

* The Commission believes that the CCCTB system can be an effective tool against aggressive tax planning and at the same time retain its attractiveness to the business.

What are your views?

- I agree
- Neutral
- I don't agree
- Other

Comments (optional):

2000 character(s) maximum

CCCTB was originally launched and designed to address cross-border tax obstacles in the Single market. In our opinion, this should remain the focus of a CCCTB. As to the substance of the CCCTB, its rules should be competitive compared to corporate income tax regimes in other parts of the world. Since the CCCTB would entail neutralization of intra-group transactions, it provides important stability and certainty, e.g. it would avoid the need for allocation between Member States under transfer pricing and PE allocation. Tax planning related to third countries should primarily be dealt with by making the CCCTB attractive, and in addition through the introduction of appropriate anti-abuse measures that are in line with the OECD BEPS recommendations. It should be noted that the CCCTB in and of itself is not a tool against aggressive tax planning, nor should it be positioned that way. The CCCTB should be an instrument to promote growth and jobs and a means to the end of facilitating business investments and growth in the EU. In any case, the EU should not move further or faster than the rest of the world in implementing BEPS recommendations.

* The Commission envisages re-launching the CCCTB in a staged approach which will consist of 2 steps: Firstly, agreement on the tax base, secondly, moving on to consolidation.

What are your views on the staged approach?

- I'm **in favour** of the staged approach Neutral I'm **against** the staged approach
 Other

Comments (optional):

2000 character(s) maximum

In conjunction with the original proposal BUSINESSEUROPE have expressed that in order to be attractive to businesses the CCCTB needs to meet at least the following four key conditions:
It needs to allow for consolidation from the outset
It needs to be optional for business
It should be a “one stop shop” allowing for the filing of one consolidated tax return
Tax rates should be decided by national governments

We regret the current lack of consolidation and the administrative costs of complying with up to 28 different tax regimes. It constitutes major obstacles to cross-border business activity in Europe.

The initial stage of the re-launched CCCTB without consolidation would be of limited interest for businesses because it will not provide stability and certainty. Intra-EU tax disputes will continue to exist. It is only when the second stage is properly enacted that it would have a positive impact for businesses, investments and growth. It is therefore crucial that the second stage is addressed already from the outset and that its introduction follows as quickly as possible, without undue delay. In order to remove cross border tax obstacles, intra-group transactions should be disregarded for tax purposes. A common, but not consolidated, corporate tax base would suffer from the same transfer pricing problems and lack of loss relief as exist today within the EU. The CCCTB is a better approach to address concerns regarding intra-group transactions and a level playing field compared to extensive national implementation of anti-abuse measures.

- * It is a priority of the Commission to promote discussion in Council of certain BEPS-related international aspects of the common base before the re-launched CCCTB is proposed. The aim will be to arrive at consensus on how to implement certain OECD anti-BEPS best practice recommendations in a uniform fashion across the EU. The intention would be to create a common playing field in defending the Single Market against base erosion and profit shifting.

What are your views on agreeing on such a common approach?

- I'm **in favour** of such a common approach Neutral I'm **against** such a common approach
 Don't know Other

Comments (optional):

2000 character(s) maximum

BEPS will undoubtedly lead to increased double taxation, especially without a coordinated international approach. The OECD has made recommendations to ensure a unified approach as far as possible. Almost all of the EU Member States and the Commission were at the table when BEPS actions were decided and a peer review is planned for several of the action points. An additional BEPS initiative limited to only the EU could lead to a separate, different - and possibly stricter - standard being applied in the EU than in the rest of the world. Such a scenario is not beneficial for the competitiveness of the EU and would not improve the international tax system. The EU should actively influence the implementation process at the G20/OECD level to ensure one standard and a global playing field avoid unilateral action.

An anti-BEPS directive might help to align the OECD recommendations with EU law. However, it may be difficult to accomplish a meaningful alignment of common anti-BEPS tax base rules before the common tax base rules have been agreed upon more broadly, since anti-BEPS rules would have to be customized to national tax laws. Many of the OECD recommendations are inter-related and national law needs to be reviewed carefully to ensure that the implementation of anti-BEPS rules has no undesirable consequences such as addressing the same issue twice or multiple times, discriminating certain business activities etc. In addition, it needs to be kept in mind that the Member States start from very different situations in relation to the anti-BEPS measures they have already implemented.

The Commission should however actively contribute to ensure EU-law compliant implementation in the Member States and comprehensive and timely impact assessments are required to ensure a level playing field.

5

Scope, Anti-avoidance

5.1

Scope of the CCTB/CCCTB proposal

- * The Commission considers making the new proposal for a CCCTB obligatory for all EU companies which are part of a group. A group can be formed:
 - Between parent and subsidiary companies where there is a holding of more than 50% of the voting rights; and direct or indirect holding amounting to more than 75% of capital or more than 75% of the profit rights); or
 - Between a Head Office and its permanent establishment where a company has one or more permanent establishment in other Member States.

What are your views on making the proposal for a CCCTB obligatory for all EU companies which are part of a group?

- I'm **in favour** of this obligation Neutral I'm **against** this obligation
 Don't know Other

Would you suggest a different approach to defining who should be required to use the CCCTB? If yes, please explain your suggestion briefly.

2000 character(s) maximum

The CCCTB should provide for a competitive tax system which boosts business activity and strengthens the European economy. For many companies a CCCTB would address key issues such as transfer pricing, cross-border loss relief and unresolved double taxation. Regardless of how competitive a new system may be, any shift from a purely domestic tax system to a common system within the EU will entail significant costs for taxpayers and tax authorities. These costs may, at least temporarily, outweigh the benefits of a new system. Making CCCTB obligatory as soon as a group establishes itself in another Member State would introduce obstacles to growth and cross-border expansion in particular for SMEs. A compulsory shift of the applicable corporate tax system to comply with, could prove to be contradictory in terms of economic growth and competitiveness. This should be taken into consideration.

In addition, for governments an optional system entails the benefit of a gradual adoption by businesses, thereby ensuring a limited short term impact on corporate tax revenues. Governments would have to administer two corporate tax systems, unless they force all businesses to apply with the new corporate tax rules irrespective of any presence of cross-border activity and legal business form (limited company or sole proprietor).

* The Commission envisages providing the following option:

Companies which would not be subject to the mandatory CCCTB - because they do not fulfil the requirements of being part of a group - could still have the possibility to apply the rules of the system.

What are your views on offering non-qualifying companies the option to apply the rules?

- I'm **in favour** of this option Neutral I'm **against** this option
 Don't know Other

Comments (optional):

2000 character(s) maximum

We would welcome such a proposal.

5.2

Anti-avoidance elements

- * In view of recent developments, the CCCTB system should include more robust rules to defend itself against aggressive tax planning.

Which of the elements of the CCCTB system would you reinforce so that the system can better respond to tax avoidance?

(Multiple answers possible)

- Rules for limiting interest deductibility
- Disallowance of tax exemption for portfolio participations
- Exit taxation rules
- More robust rules on controlled foreign companies regimes (CFC)
- Anti-abuse rules based on effective rather than statutory rates
- Addressing distortions caused by debt/equity bias
- Other suggestion
- None of the above

- * Please specify your other suggestions

2000 character(s) maximum

Arbitration between EU/non-EU. Within the EU mandatory arbitration should be the rule and we would welcome such a directive

6

Hybrid Mismatches, Research and Development

6.1

Hybrid mismatches

- * Hybrid mismatches are the result of disparities in the tax treatment of an entity or financial instrument under the laws of two or more States. Currently, arrangements can be set up to exploit such mismatches for the purpose of lowering their overall tax burden. The risk of such arrangements would be removed in transactions between enterprises applying the common tax base rules within a consolidated group. It would however persist in relations with enterprises outside the common rules as well as during step 1 of the staged approach to a CCCTB, in the absence of tax consolidation amongst the companies applying the common rules.

One option to address hybrid mismatches would be to require enterprises to follow in a Member State the classification of entities and/or of financial instruments adopted in the other Member State or the third country which is party to the transaction.

In your view, can hybrid mismatches be effectively addressed through any other measures than the one suggested above?

- Yes No
 Don't know Other

Please explain your response and/or provide further comments:

The EU should refrain from initiating measures that deviate from the OECD recommendations. A consolidated CCCTB would solve many hybrid mismatches.

6.2

Treatment of costs for Research and Development

- * In the currently pending CCCTB proposal, the Commission has proposed a favourable treatment of costs for Research and Development (R&D) by making these costs fully deductible in the tax year they are incurred, with the exception of costs relating to immovable property.

What are your views on the existing framework for R&D?

- I **support** the existing framework for R&D Neutral I **don't support** the existing framework for R&D
 Don't know Other

Comments (optional):

2000 character(s) maximum

- * One option for rendering the CCCTB more favourable to promoting R&D could be to introduce more generous provisions for deducting R&D costs, such as super deductions which are currently applied by a number of Member States (e.g. Croatia, the Netherlands and the UK)?

What are your views on making the existing framework for R&D more favourable?

- I'm **in favour** of making the existing framework more favourable for R&D Neutral I'm **against** making the existing framework more favourable for R&D

Don't know

Other

Would you suggest an alternative scheme? If so, please explain in your response and/or provide further comments

2000 character(s) maximum

When incentive rules are designed for R&D it is important that they do not distort intra-country allocation of R&D.

7

Debt-Equity Tax Bias, Cross-Border Loss Relief

7.1

Debt-Equity Tax Bias

- ★ Corporate tax systems usually favour debt-financing over equity-financing by treating interest payments as a tax deductible expense with no equivalent deduction for the return paid to equity.

Should the aspect of debt-equity tax bias be addressed in the proposal?

Yes Neutral No
 Don't know Other

Comments (optional):

2000 character(s) maximum

The cost of capital is a key factor in investment decisions and tax has a profound impact on the cost of capital. Equity and debt financing are two different instruments with different rights and associated different cost of capital. Therefore the tax treatment should not necessarily be the same. Tax systems of most countries in the world have i) an effect on the cost of capital and ii) treat debt and equity financing differently. Since equity financing is typically more expensive, a reduction of the difference between debt and equity financing should focus on reducing the cost for equity financing rather than increasing the cost of debt financing. Limitations on the deduction of interest payments will have a negative impact on the cost of capital. Therefore, to the extent there is a clear need to limit deductions of interest payments, it is important to have a well-targeted system in harmony with generally accepted international tax practices. The principle of net taxation of group profit over time and the avoidance of international double

taxation must be upheld with a minimum of deviation, if any at all. The guidance from Action Point 4 in the BEPS project (EBITDA and Group Allocation rules) should be evaluated in that perspective.

The corporate tax debt-equity bias could be addressed via three possible policy options.

- Option 1 is the Comprehensive Business Income Tax (CBIT) that disallows any financing costs as deductible expense.
- Option 2 is the Allowance for Corporate Equity (ACE) that allows the deductibility of actual interest payments and of a notional interest on equity.
- Option 3 is the Cost of Capital Allowance (COCA) that allows the deductibility of a notional interest on capital (equity and debt).

In your view, which option would be best suited to address the debt-equity tax bias?

- Comprehensive Business Income Tax (CBIT)
- Allowance for Corporate Equity (ACE)
- Cost of Capital Allowance (COCA)
- None of the above
- Don't know
- Other

Comments (optional):

2000 character(s) maximum

An ACE system can achieve neutrality between debt and equity financing but to a higher statutory corporate tax rate if short term revenue neutrality is required. Disallowing deductions for interest payments, while keeping deductions for other costs, entails the need to exactly define what interest costs are. This is extremely complicated since an element of interest cost is included in rents, leasing and also in many financial instruments. The need of a precise definition is amplified for a COCA system. Well targeted earning stripping methods therefore seem appropriate, provided an ACE is not sufficiently comprehensive to eliminate the difference between debt and equity financing.

7.2

Temporary mechanism for cross-border loss relief

- * The Commission envisages proposing a temporary mechanism for cross-border loss relief with recapture until the consolidation step (CCCTB) is agreed. The aim will be to balance out the absence of the benefits of consolidation during the first step (CCTB) of the proposal.

What are your views on such a temporary mechanism for cross-border loss relief?

- I'm **in favour** of such a temporary mechanism
- Neutral
- I'm **against** such a temporary mechanism
- Don't know
- Other

Which other measures could temporarily substitute the absence of consolidation?

Please explain your response and/or provide further comments.

A cross-border loss relief system does not replace consolidation. Consolidation brings a much higher degree of simplification and that should be the aim.

Comments (optional):

2000 character(s) maximum

As indicated above, consolidation is essential for businesses. It does not only deal with cross-border loss compensation but will also reduce the impact of differences in PE allocation and TP rules for intra-community transactions. There is a need for faster and efficient MAP and arbitration capacity to deal with these issues at present. Consolidation will facilitate the one-stop-shop approach for compliance requirements, streamlining requirements for taxpayers and tax authorities. The introduction of a temporary mechanism would naturally somewhat mitigate the absence of consolidation by at least providing a tax credit for cross border losses until the loss making group member is making profits. Although such a proposal naturally is better than nothing, it cannot be compared to a system of consolidation and is far from sufficient. Consequently, an expeditious transition to the second stage is of utmost importance in order for the CCCTB to promote cross-border investments, jobs and growth.

8

Final remarks, additional information

Is there anything else you would like to bring to the attention of the Commission?

The pending CCCTB proposal has been widely discussed and scrutinized since it was introduced in 2011. It was launched to address cross-border obstacles in the corporate tax field. In the impact assessment tabled at the time, consolidation was shown to be the most important factor for growth. Although we are positive to the fact that the Commission, despite the political difficulties surrounding certain aspects of the proposal, is aiming for a re-launch of the proposal, we are concerned and surprised that the Commission now intends to re-launch it as a restrictive tool to combat aggressive tax planning. It would indeed combat tax shifting if the CCCTB is competitive and promotes investments, job creation and growth.

The main focus for the CCCTB as well as of European tax policy should continue to be the promotion of investments, jobs and growth, by addressing

cross-border tax obstacles. On BEPS implementation, the EU should not go beyond what is agreed under the G20/OECD action plan and should not move faster in implementation than other countries. Any proposal, whether a changed CCCTB proposal or a BEPS implementation proposal will need to be subject to a thorough impact assessment, which also takes into consideration the competitive position of the EU with and without the proposed measures.

There are numerous tax barriers to the Single Market. They relate in particular to the lack of cross-border profit and loss relief and the large number of transfer pricing disputes within the EU, frequently resulting in international double taxation. On top of that, the implementation of the various BEPS measures are likely to result in an even higher number of disputes. Addressing these issues through a competitive CCCTB and appropriate dispute settlement mechanisms should be at the forefront and a top priority for the Commission and Member States.

Finally, consolidation is the most crucial element for boosting growth as the European Commission own impact assessment highlighted in 2011.

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here.

Useful links

Press release on this public consultation (http://europa.eu/rapid/press-release_IP-15-5796_en.htm)

Europa site on CCCTB

(http://ec.europa.eu/taxation_customs/taxation/company_tax/common_tax_base/index_en.htm)

Action Plan for Fair and Efficient Corporate Taxation in the EU

(http://europa.eu/rapid/press-release_IP-15-5188_en.htm)

Questions and Answers on the CCCTB re-launch (http://europa.eu/rapid/press-release_MEMO-15-5174_en.htm)

Taxation Working Paper 33: "The Debt-Equity Tax Bias"

(http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_papers/tax

Taxation Working Paper 52: "A Study on R and D Tax Incentives"

(http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_papers/tax

Privacy statement for this public consultation

(http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/tax/relaunch_ccctb/privacy_s

Contact

✉ TAXUD-CCCTB@ec.europa.eu
