

Common Consolidated Corporate Tax Base (CCCTB)

2011/0058(CNS) - 19/04/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 452 votes to 172, with 36 abstentions, in the framework of a special legislative procedure (Parliament's consultation), a legislative resolution on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB).

Parliament recommends amending the proposal as follows:

Internal market and employment: the resolution states that the introduction of a CCCTB should **improve growth and lead to more jobs in the Union** by reducing the administrative costs and red tape for companies, particularly for small businesses operating in several Member States. Member consider that it is desirable that the CCCTB is applied as soon as possible to as many companies as possible.

Tax neutrality: the broad tax base, the consolidation and the discretionary powers of the Member States with regard to their national corporate taxation rates make the CCCTB a tax-neutral operation.

Mandatory system after a transition period: European Companies and European Cooperative Societies, which are, by definition, transnational, are considered to have opted to apply this Directive from two years after its date of application. All other companies that qualify under this Directive, except for micro, small and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC, should also apply this Directive not later than five years after its date of application. When evaluating the impact of the CCCTB, the Commission should examine whether it should also be made mandatory for such micro, small and medium-sized enterprises.

By two years after the entry into force of this Directive, the Commission shall provide a **tool enabling SMEs engaged in cross-border activities to opt into the CCCTB scheme on a voluntary basis.**

Enhanced cooperation: as the internal market encompasses all Member States, a Common Consolidated Corporate Tax Base (CCCTB) should be introduced in all Member States. However, if the Council fails to adopt a unanimous decision on the proposal to establish a CCCTB, it is appropriate to initiate without delay the procedure for a Council decision authorising enhanced cooperation in the area of the CCCTB. Such enhanced cooperation should be initiated by the Member States whose currency is the euro but should be open at any time to other Member States in accordance with the Treaty on the Functioning of the European Union.

Deductible charges: Parliament considers that recurring costs relating to **environmental protection** and reduction of carbon emissions shall also be regarded as deductible expenses.

Excise duties imposed on energy products, alcohol and alcoholic beverages, and manufactured tobacco should be considered as non deductible charges.

Insurance undertakings: a Member State which, pursuant to Article 62 of Directive 91/674/EEC, has opted to introduce a commercial law requirement to constitute equalisation provisions must also make such provisions tax deductible.

Pre-entry losses: where a taxpayer incurred losses before opting into the system provided for by this Directive which could be carried forward under the applicable national law but had not yet been set off

against taxable profits, those losses may be deducted from the part of the tax base taxed in the Member State of the previously applicable national law to the extent provided for under that national law.

Switch-over clause: the proposed Directive stipulates that the following shall be exempt from corporate tax: the profit distributions, the entity the shares in which are disposed of or the permanent establishment were subject, in the entity's country of residence or the country in which the permanent establishment is situated, to the following: a tax on profits, under the general regime in that third country, at a statutory corporate tax rate lower than **70%** of the average statutory corporate tax rate applicable in the Member States.

General anti-abuse rules: Parliament considers that artificial transactions carried out mainly for the purpose of avoiding taxation shall be ignored for the purposes of calculating the tax base.

Apportionment of the consolidated tax base: Members state that a formula where sales, labour and assets are weighted at **10%, 45% and 45%** respectively would in two ways be a more reasonable solution. It would make sure that the CCCTB system does not deviate too much from the internationally accepted principle of attributing ultimate taxing rights to the source state. It would also ensure that small and medium-sized Member States with limited domestic markets are not disproportionately disadvantaged in the apportionment of the tax base.

Content of tax return: the **uniform tax return** format shall be designed by the Commission in cooperation with the tax administrations of the Member States.

Audits: an audit may also be initiated on the request of a competent authority in the Member State where the group member is established.

CCCTB Forum: Parliament calls on the Commission to initiate a new CCCTB forum, similar to the Joint Transfer Pricing Forum, to which companies and Member States can address issues and disputes relating to the CCCTB and which shall provide guidance.

Assessment: any future assessment of the instrument should be communicated to the members of the **competent committee of the European Parliament**.

The Commission shall, five years after the entry into force of this Directive, review its application and **report to the European Parliament** and to the Council on the operation of this Directive.

The report shall among other things include an analysis, based on an independent assessment, of

- the impact of the mechanism set up in Chapter XVI of this Directive on the distribution of the tax bases between the Member States and the impact on their tax revenues;
- the use and practicability of this Directive by SMEs;
- the advantages and disadvantages of making the system mandatory for SMEs;
- the socio-economic implications of this Directive, including the impact on the global operations of companies and on the competitiveness of eligible and non-eligible companies;
- the impact on a fair and just tax collection in the Member States;
- the advantages and disadvantages of introducing minimum tax rates.

Where appropriate, the Commission shall make a proposal for amending this Directive at the latest by 2020.

By two years after the entry into force of this Directive, the Commission shall present a report to the European Parliament and the Council on the potential consequences of this directive on the internal market with particular regard to possible distortions of competition between companies subject to the arrangements laid down in this directive and those not fulfilling the consolidation criteria.