Procedure file

Basic information

CNS - Consultation procedure Directive	2011/0058(CNS)	Procedure lapsed or withdrawn
Common Consolidated Corporate Tax Base (CCCTB) Subject 2.70.01 Direct taxation 3.45.04 Company taxation		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		
	Committee for opinion	Rapporteur for opinion	Appointed
	IMCO Internal Market and Consumer Protection		
	Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
	JURI Legal Affairs		
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	3435	08/12/2015
European Commission	Commission DG	Commissioner	
	Taxation and Customs Union	ŠEMETA Algirdas	

Key events

16/03/2011	Legislative proposal published	COM(2011)0121	Summary
07/04/2011	Committee referral announced in Parliament		
21/03/2012	Vote in committee		
29/03/2012	Committee report tabled for plenary, 1st reading/single reading	A7-0080/2012	Summary
18/04/2012	Debate in Parliament		
19/04/2012	Results of vote in Parliament		
19/04/2012	Decision by Parliament	T7-0135/2012	Summary
08/12/2015	Debate in Council	3435	
28/02/2017	Proposal withdrawn by Commission		

Technical information

Procedure reference	2011/0058(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the EU TFEU 115
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	ECON/7/05678

Documentation gateway

Legislative proposal		COM(2011)0121	16/03/2011	EC	Summary
Document attached to the procedure		SEC(2011)0315	16/03/2011	EC	
Document attached to the procedure		SEC(2011)0316	16/03/2011	EC	
Economic and Social Committee: opinion, report		CES1585/2011	26/10/2011	ESC	
Committee draft report		PE475.870	09/11/2011	EP	
Amendments tabled in committee		PE478.376	12/12/2011	EP	
Committee of the Regions: opinion		CDR0152/2011	14/12/2011	CofR	
Committee opinion	IMCO	PE475.872	25/01/2012	EP	
Specific opinion	JURI	PE480.657	30/01/2012	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0080/2012	29/03/2012	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0135/2012	19/04/2012	EP	Summary
Commission response to text adopted in plenary		SP(2012)388	30/05/2012	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Common Consolidated Corporate Tax Base (CCCTB)

PURPOSE: to establish a system for a common base for the taxation of certain companies and groups of companies and lays down rules relating to the calculation and use of that base.

PROPOSED ACT: Council Directive.

BACKGROUND: Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence of 27 diverse corporate tax systems. These obstacles and distortions impede the proper functioning of the internal market. They create disincentives for investment in the Union and run counter to the priorities set in the Europe 2020. Tax obstacles to cross-border business are particularly severe for small and medium enterprises, which commonly lack the resources to resolve market inefficiencies.

A key obstacle in the single market today involves the high cost of complying with transfer pricing formalities using the arm's length approach. Furthermore, the way that closely-integrated groups tend to organise themselves strongly indicates that transaction-by-transaction pricing based on the 'arm's length' principle may no longer be the most appropriate method for profit allocation. The possibility of cross-border loss offsets is only made possible in a limited number of circumstances within the EU, which leads to over-taxation for companies engaged in cross-border activities.

In addition, the network of Double Tax Conventions (DTCs) does not offer an appropriate solution for the elimination of double taxation in the single market, as it is designed to operate in a bilateral context at the international level, rather than within a closely integrated setting.

The Common Consolidated Corporate Tax Base (CCCTB) is an important initiative on the path towards removing obstacles to the completion of the Single Market and was identified in the Annual Growth Survey as a growth-enhancing initiative to be frontloaded to stimulate growth and job creation.

IMPACT ASSESSMENT : the Commission considers 4 main policy scenarios, which are compared with the 'no action' or 'status-quo' scenario (option 1):

- an optional Common Corporate Tax Base (optional CCTB) (option 2) ;
- a compulsory Common Corporate Tax Base (compulsory CCTB) (option 3);
- an optional Common Consolidated Corporate Tax Base (optional CCCTB) (option 4);
- a compulsory Common Consolidated Corporate Tax Base (compulsory CCCTB) (option 5).

The economic results of the impact assessment show that the removal of the identified corporate tax obstacles would allow business to make sounder economic choices and thus improve the overall efficiency of the economy. The optional CCCTB is preferable for two main reasons (i) the estimated impact on employment is more favourable and (ii) the enforced change by every single company in the Union to a new method of calculating its tax base (regardless of whether it operates in more that one Member State) is avoided.

CONTENT: it is proposed to establish a CCCTB which is a system of common rules for computing the tax base of companies which are tax resident in the EU and of EU-located branches of third-country companies. Specifically, the common fiscal framework provides for rules to compute each company?s (or branch's) individual tax results, the consolidation of those results, when there are other group members, and the apportionment of the consolidated tax base to each eligible Member State.

The CCCTB will be available for all companies whatever their size. The system is optional. Since not all businesses trade across the border, the CCCTB will not force companies not planning to expand beyond their national territory to bear the cost of shifting to a new tax system.

The common approach proposed would ensure consistency in the national tax systems but would not harmonise tax rates. Each Member State will be applying its own rate to its share of the tax base of taxpayers.

Harmonisation will only involve the computation of the tax base and will not interfere with financial accounts. Therefore, Member States will maintain their national rules on financial accounting and the CCCTB system will introduce autonomous rules for computing the tax base of companies. These rules shall not affect the preparation of annual or consolidated accounts.

Under the CCCTB, groups of companies would have to apply a single set of tax rules across the Union and deal with only one tax administration (one-stop-shop).

- A company that opts for the CCCTB ceases to be subject to the national corporate tax arrangements in respect of all matters regulated by the common rules.
- A company which does not qualify or does not opt for the system provided for by the CCCTB Directive remains subject to the national corporate tax rules which may include specific tax incentive schemes in favour of research and development.

The proposal includes a complete set of rules for company taxation. It details who can opt, how to calculate the taxable base and what is the perimeter and functioning of the consolidation. It also provides for anti-abuse rules, defines how the consolidated base is shared and how the CCCTB should be administered by Member States under a 'one-stopshop' approach.

To assist Member State tax administrations in the run up to the implementation of the CCCTB it is planned that the FISCALIS EU programme will be mobilised to assist Member States in the CCCTB implementation and administration.

A major benefit of the introduction of the CCCTB will be a reduction in compliance costs for companies. On average, the tax experts estimated that a large enterprise spends over EUR 140 000 (0.23% of turnover) in tax related expenditure to open a new subsidiary in another Member State. The CCCTB will reduce these costs by EUR 87 000 or 62%. The savings for a medium sized enterprise are even more significant, as costs are expected to drop from EUR 128 000 (0.55% of turnover) to EUR 42 000 or a decrease of 67%.

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.

Common Consolidated Corporate Tax Base (CCCTB)

The Committee on Economic and Monetary Affairs adopted, in the framework of a special legislative procedure (Parliaments consultation), the report drafted by Marianne THYSSEN (EPP, BE) on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB).

The committee amended the proposal as follows:

Internal market and employment: the report 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.

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.

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.

Option system established by the Directive: European Companies and European Cooperative Societies: these are by definition, transnational, are considered to have opted to apply the system provided for by this Directive from two years after the date on which the Member States

apply the provisions of this Directive. All other companies that qualify under this Directive, except for micro, small and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC (SMEs), should also apply this Directive not later than by the end of the fifth year on which the Member States apply this Directive.

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

Deductible charges: Members consider 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 entitys 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: Members consider 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: Members call 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.

Common Consolidated Corporate Tax Base (CCCTB)

The European Parliament adopted by 452 votes to 172, with 36 abstentions, in the framework of a special legislative procedure (Parliaments 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 aspossible.

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 entitys 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.

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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.