

Procedure file

Basic information	
CNS - Consultation procedure Directive	2016/0336(CNS)
Common consolidated corporate tax base (CCCTB)	Awaiting final decision
See also 2016/0337(CNS)	
Subject	
3.45.04 Company taxation	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 ECON Economic and Monetary Affairs	 LAMASSOURE Alain	22/11/2016
		Shadow rapporteur	
		 BAYET Hugues	
		 LOONES Sander	
		 WIERINCK Lieve	
		 JOLY Eva	
		 VALLI Marco	
		 KAPPEL Barbara	
		Committee for opinion	Rapporteur for opinion
 IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.		
 JURI Legal Affairs			28/11/2016
	 REGNER Evelyn		
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	3506	06/12/2016
European Commission	Commission DG	Commissioner	
	Taxation and Customs Union	MOSCOVICI Pierre	

Key events

25/10/2016	Legislative proposal published	COM(2016)0683	Summary
24/11/2016	Committee referral announced in Parliament		
06/12/2016	Debate in Council	3506	
21/02/2018	Vote in committee		
01/03/2018	Committee report tabled for plenary, 1st reading/single reading	A8-0051/2018	Summary
14/03/2018	Debate in Parliament		
15/03/2018	Results of vote in Parliament		
15/03/2018	Decision by Parliament	T8-0087/2018	Summary

Technical information

Procedure reference	2016/0336(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
	See also 2016/0337(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 115
Stage reached in procedure	Awaiting final decision
Committee dossier	ECON/8/08272

Documentation gateway

Legislative proposal		COM(2016)0683	25/10/2016	EC	Summary
Document attached to the procedure		SWD(2016)0341	26/10/2016	EC	
Document attached to the procedure		SWD(2016)0342	26/10/2016	EC	
Committee draft report		PE608.035	13/07/2017	EP	
Amendments tabled in committee		PE609.575	29/09/2017	EP	
Committee opinion	JURI	PE602.928	04/10/2017	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0051/2018	01/03/2018	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0087/2018	15/03/2018	EP	Summary
Commission response to text adopted in plenary		SP(2018)242	24/05/2018	EC	

Common consolidated corporate tax base (CCCTB)

PURPOSE: to present a proposal for a re-launched Common Consolidated Corporate Tax Base (CCCTB) to ensure a corporate tax system that encourages growth and fairness in the internal market.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting Parliament but without being obliged to follow the

latters opinion.

BACKGROUND: currently, businesses with cross-border activity have to comply with up to 28 divergent corporate tax systems. Generally, corporate income is taxed at national level, but the economic environment has become more globalised, mobile and digital. Business models and corporate structures are more complex, making it easier to shift profits.

In March 2011, the Commission proposed a [directive for a Common Consolidated Corporate Tax Base](#) (CCCTB). The proposal, which is still pending in Council, aims to provide companies with a single set of corporate tax rules for doing business across the internal market, thereby facilitating their cross-border activity.

The discussions in Council since 2011 have shown that the CCCTB proposal is unlikely to get adopted, in its entirety, without a staged approach. The Commission, in its [action plan](#) of June 2015, advocated a step-by-step approach to the CCCTB.

Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, the Commission considers it necessary to divide the ambitious CCCTB initiative into two separate proposals. It proposes, at a first stage, rules on [a common corporate tax base](#), before addressing, at a second stage, the issue of consolidation.

This proposal for a Directive focuses on the so-called 'second step' of the staged approach (consolidation), i.e. after the elements of the common base have politically been agreed. Until this is achieved, the 2011 proposal for a CCCTB will remain pending for examination in Council. The Commission will submit the two proposals, i.e. for a common corporate tax base and a CCCTB, simultaneously and as part of a single initiative. The proposal of 2011 will be withdrawn at the same time as the Commission adopts the new proposals.

This initiative on re-launching the CCCTB features prominently in the Commissions larger project in the field of fairer taxation. It will be presented at the same time as the proposal for a directive on hybrid mismatches involving third countries (which will amend the Directive tax avoidance) and [a directive](#) on dispute settlement.

IMPACT ASSESSMENT: the main policy option that has been considered is a proposal for a common consolidated corporate tax base. A key choice to be made relates to the scope of such a tax base, i.e. to whom it would apply.

Assessing the different options has led to a preferred option: a CCCTB mandatory for large companies, equipped with an 'Allowance for Growth and Investment' and with an allowance for research and development expenses.

The anticipated economic benefits of the proposal are positive, leading to an increase in investment and employment of up to 3.4% and 0.6%, respectively. Overall, growth would increase by up to 1.2%.

CONTENT: the proposal is the 'second step' in a staged approach towards an EU-wide corporate tax system with cross-border consolidation of the tax results amongst members of the same group.

Scope: in contrast to the proposal of 2011, which laid down an optional system for all, this proposal will be mandatory for groups of companies beyond a certain size (whose consolidated turnover is above EUR 750 million). The threshold is in line with the approach taken in other EU initiatives to counter tax avoidance.

At the same time, the common rules will be available, as an option, to a wide scope of groups that fall short of the size threshold. This allows SMEs and micro-enterprises the opportunity to benefit from the advantages of a CCCTB without making it compulsory for this set of companies.

Definition of group: (unchanged compared to the proposal of 2011): eligibility for the consolidated tax group will be determined in accordance with a two-part test based on (i) control (more than 50% of voting rights) and (ii) ownership (more than 75 % of equity) or rights to profits (more than 75 % of rights giving entitlement to profit). These thresholds must be met throughout the tax year; otherwise, the failing company will have to leave the group immediately.

Business reorganisations and taxation of losses and unrealised capital gains: the proposed framework chiefly involves the treatment of losses and unrealised capital gains on entering and leaving the group.

There are rules to deal with unrealised capital gains which have accrued to fixed assets where the assets are disposed of within a short period after their entry into, or exit from, a group. A Member State (in the case of an entry into a group) or the group (in the case of an exit from a group) are given the right to tax underlying capital gains to the extent those were created in their tax jurisdiction. Moreover, the tax treatment of capital gains engrained in self-generated intangible assets calls for a customised approach, which will involve assessing them on the basis of a suitable proxy, that is to say, research and development, and marketing and advertising costs over a specified period.

Withholding taxes (unchanged compared to the proposal of 2011): the proceeds of withholding taxes charged on interest and royalty payments made by taxpayers will be shared according to the formula of that tax year. Withholding taxes charged on dividends will not be shared.

Preventing circumvention of tax exemptions (unchanged compared to the proposal of 2011): the tax exemption in favour of disposals of shares will be disallowed if this is illegitimately extended to sales of assets other than shares.

Formula for apportionment: one of the principal elements of the proposal is the formulary apportionment, comprised of three equally weighted factors (i.e. labour, assets and sales by destination). This combination reflects a balanced approach to distributing taxable profits amongst eligible Member States.

Administrative procedures: in contrast to the proposal of 2011, the common administrative rules are limited to the consolidated group.

Groups will deal with a single tax administration in the EU ('principal tax authority' or 'one-stop-shop'.) This will be based in the Member State where the parent company of the group ('principal taxpayer') is resident for tax purposes. Audits will be initiated and coordinated by the principal tax authority.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty of the Functioning of the European Union.

Common consolidated corporate tax base (CCCTB)

The Committee on Economic and Monetary Affairs adopted, following Parliaments consultation, the report by Alain LAMASSOURE (EPP, FR) on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB).

The committee recommended that the European Parliament approve the Commission proposal subject to the following amendments:

The report noted that in times of globalisation and digitalisation, taxation of in particular financial and intellectual capital on a source base is becoming increasingly harder to retrace and easier to manipulate. The mainstream digitalisation of many sectors of the economy coupled with the fast developing digital economy calls into question the suitability of the Union corporate tax models.

Subject matter: Members are calling for a Directive which aims to establish a common base for the taxation in the Union of certain companies and lays down rules for the calculation of that base, including rules on measures to prevent tax avoidance and on measures relating to the international dimension of the proposed tax system.

Once implemented in all Member States, a CCCTB would ensure that taxes are paid the internal market. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market and act as a powerful to tackle aggressive tax planning.

Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is very important to ensure simultaneous entry into force of the [Directive](#) on a Common Corporate Tax Base and the Directive on a Common Consolidated Corporate Tax Base. Because such a change of regime is a significant step in the completion of the internal market, it needs flexibility in order to be properly executed from the outset. Hence, as the internal market encompasses all Member States, the CCCTB should be introduced in all Member States.

Scope: the rules of this Directive shall apply to a company that is established under the laws of a Member State, including its permanent and digital permanent establishments in other Member States, where the company meets specific conditions, in particular, that they belong to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR 750 million during the financial year preceding the relevant financial year. That threshold shall be lowered to zero over a maximum period of seven years.

Tax residence: the amended text stipulated that a resident taxpayer shall be subject to corporate tax on all income generated by any activity, whether inside or outside the Member State where it is resident for tax purposes. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent establishment, including through a digital permanent establishment, in a Member State.

Effect of consolidation: the tax basis of a consolidated group shall be determined as if it were one single entity. For that purpose, the aggregate tax basis of the group shall be retreated in order to eliminate all profits or losses including those arising from any transaction, whatever its nature, between two or more entities within the group.

Apportionment of the common consolidated tax base: in its proposal, the Commission suggested that taxable profits be shared between the different Member States where the company operates. The apportionment formula comprises of three equally weighted factors: sales, assets and labour. Members proposed adding the fourth factor - personal data collection and exploitation for commercial purposes (data) to ensure that CCCTB also applies to digital activities.

Informing the European Parliament: the European Parliament shall organise an interparliamentary conference to evaluate the CCCTB regime, taking into account the outcomes of the tax policy discussions held under the procedure of the European Semester. It shall communicate its opinion and conclusions thereon by means of a resolution addressed to the Commission and the Council.

Compensation mechanism: in order to compensate for sudden shocks in tax revenues across Member States arising from fiscal gains and losses directly and solely caused by the switch to the new regime introduced by this proposed Directive, the Commission shall establish a dedicated compensation mechanism, operational from the entry into force of this Directive. Compensation shall be adjusted each year to take into account national or regional decisions taken prior to the entry into force of this Directive. The compensation mechanism shall be financed by the fiscal surplus from those Member States that experience gains in fiscal revenues, and shall be set for an initial period of seven years.

Implementation report and review: the Commission shall, five years after the entry into force of this Directive, assess its application and report to the European Parliament and the Council on the operation of this Directive. The Commission shall propose the terms and conditions to allocate a part of the fiscal revenues generated from the common consolidated corporate tax base to the budget of the Union in order to proportionally reduce Member States contributions to the same budget.

Common consolidated corporate tax base (CCCTB)

The European Parliament adopted by 438 votes to 145, with 69 abstentions, following Parliaments consultation, a legislative resolution on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB).

Parliament approved the Commission proposal subject to the following amendments:

Members noted that in times of globalisation and digitalisation, taxation of in particular financial and intellectual capital on a source base is becoming increasingly harder to retrace and easier to manipulate. The mainstream digitalisation of many sectors of the economy coupled with the fast developing digital economy calls into question the suitability of the Union corporate tax models.

Subject matter: Parliament called for a Directive which aims to establish a common base for the taxation in the Union of certain companies and lays down rules for the calculation of that base, including rules on measures to prevent tax avoidance and on measures relating to the international dimension of the proposed tax system.

Once implemented in all Member States, a CCCTB would ensure that taxes are paid where profits are generated and where companies have permanent establishment. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market and act as a powerful to tackle aggressive tax planning.

The amended text stressed the importance of ensuring the simultaneous entry into force of the [Directive](#) on a Common Corporate Tax Base and the Directive on a Common Consolidated Corporate Tax Base. Moreover, as the internal market encompasses all Member States, the CCCTB should be introduced in all Member States. If the Council fails to adopt a unanimous decision on the proposal to establish a CCCTB,

the Commission should issue a new proposal in accordance with the ordinary legislative procedure. As a last resort, an enhanced cooperation should be initiated by Member States.

Scope: the rules of this Directive shall apply to a company that is established under the laws of a Member State, including its permanent and digital permanent establishments in other Member States, where the company meets specific conditions, in particular, that they belong to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR 750 million during the financial year preceding the relevant financial year. That threshold shall be lowered to zero over a maximum period of seven years.

Digital presence in a country to determine taxable profits: the amended text stipulated that a resident taxpayer shall be subject to corporate tax on all income generated by any activity, whether inside or outside the Member State where it is resident for tax purposes. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent establishment, including through a digital permanent establishment, in a Member State.

Effect of consolidation: the tax basis of a consolidated group shall be determined as if it were one single entity. For that purpose, the aggregate tax basis of the group shall be retreated in order to eliminate all profits or losses including those arising from any transaction, whatever its nature, between two or more entities within the group.

Where the consolidated tax base is negative, the loss shall be carried forward and be set off against the next positive consolidated tax base for a maximum period of five years.

Apportionment of the common consolidated tax base: in its proposal, the Commission suggested that taxable profits be shared between the different Member States where the company operates. The apportionment formula comprises of three equally weighted factors: sales, assets and labour. Members proposed adding the fourth factor - personal data collection and exploitation for commercial purposes (data) to ensure that CCCTB also applies to digital activities.

The volume of personal data collected pursuant to the data factor shall be measured at the end of the tax year in each Member State.

Informing the European Parliament: the European Parliament shall organise an interparliamentary conference to evaluate the CCCTB regime, taking into account the outcomes of the tax policy discussions held under the procedure of the European Semester. It shall communicate its opinion and conclusions thereon by means of a resolution addressed to the Commission and the Council.

Compensation mechanism: in order to compensate for sudden shocks in tax revenues across Member States arising from fiscal gains and losses directly and solely caused by the switch to the new regime introduced by this proposed Directive, the Commission shall establish a temporary compensation mechanism, operational from the entry into force of this Directive. Compensation shall be adjusted each year to take into account national or regional decisions taken prior to the entry into force of this Directive. The compensation mechanism shall be financed by the fiscal surplus from those Member States that experience gains in fiscal revenues, and shall be set for an initial period of seven years.

Informing the European Parliament: Members suggested that the European Parliament organise an interparliamentary conference to evaluate the CCCTB regime, taking into account the outcomes of the tax policy discussions held under the procedure of the European Semester. It shall communicate its opinion and conclusions thereon by means of a resolution addressed to the Commission and the Council.

Implementation report and review: the Commission shall, five years after the entry into force of this Directive, assess its application and report to the European Parliament and the Council on the operation of this Directive. The Commission shall propose the terms and conditions to allocate a part of the fiscal revenues generated from the common consolidated corporate tax base to the budget of the Union in order to proportionally reduce Member States contributions to the same budget.