



EU Tax Centre

Special CCCTB Update

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CCCTB proposal: current status

Common consolidated corporate tax base – Commission proposal – Consultation procedure

On March 16, 2011, the European Commission published a draft Directive on a common consolidated corporate tax base (“CCCTB”) proposing a single set of rules that would allow companies operating within the EU to calculate their taxable profits according to the new ‘common’ EU tax base. (For more details on the Commission’s proposal, see the EU Tax Centre’s Euro Tax Flash no. 158). The legal basis for the Commission’s proposal is Article 115 of the Treaty on the Functioning of the European Union (TFEU). Article 115 requires the Council to consult both the European Parliament (“EP”) and the European Economic and Social Committee (“EESC”). Implementation can only take place after a unanimous Council vote.

Subsidiarity

After the Commission presented the CCCTB proposal, Member States were able to submit opinions on the compliance of the draft Directive with the principle of subsidiarity. Nine Member States submitted negative opinions. However, they did not raise sufficient votes (18) to initiate the “yellow card” procedure under which the Commission is required to re-examine a legislative proposal.

Opinion of the European Economic and Social Committee

The EESC was the first of the two bodies to submit its opinion on the Commission’s CCCTB proposal, on October 26, 2011. Overall, the EESC is in favor of the CCCTB proposal, including the consolidation aspect, which it considers “*the key to eliminating tax obstacles*”. However, the EESC also raised certain issues that it considers should be further developed by the Commission, such as: (i) the social and societal consequences of CCCTB in terms of a business’ choice of establishment (the EESC recommends conducting a study on its socio-economic impact); (ii) definitions and clarifications on rules that could create confusion and different implementation (e.g. treatment of financial assets); (iii) administrative cooperation between Member States; (iv) the weighting and current exclusion of intellectual property; and (v) the risk that Member States apply the apportionment formula in an inconsistent manner that leads to under/over taxation..

Opinion of the European Parliament

The EP has not yet submitted its final opinion on the CCCTB proposal. However, on November 9, 2011, the EP’s Committee on Economic and Monetary Affairs issued a draft report on the proposal, accompanied by an explanatory statement. The proposed amendments to the text of the Directive and its recital contained in the draft report do not significantly alter the provisions of the Directive. One of the main areas emphasized in the draft report is the possibility for future harmonization of tax rates. According to

the draft report, the benefits of harmonized tax rates should be considered when the Directive is assessed, which should be five years after its implementation. Additional points that should be addressed during a subsequent assessment are the optional character of the regime, the apportionment formula, and the impact on small and medium-sized businesses. The draft report also endorses the possibility of the Directive being adopted by Eurozone Member States by way of the enhanced cooperation procedure.

Opinion of the Committee of the Regions

On October 5, 2011, the Committee of the Regions' Commission for Economic and Social Policy ("ECOS") submitted its opinion on the CCCTB proposal. Although the ECOS recognizes the benefits of common tax rules in the EU, it expressed reservations on the adoption of the Commission's CCCTB proposal as it currently stands. One of the concerns expressed by ECOS is that CCCTB does not apply to local or regional taxes on profits. This means businesses will still be required to determine their tax bases under local rules in order to determine their tax liabilities for local or regional purposes. ECOS also outlined the difficulties associated with reaching unanimity within the Council, which might mean that CCCTB will be implemented by a limited number of Member States and thus fail to satisfy its initial objective.

Opinion Statement of Confederation Fiscale Europeene

In November 2011, the Confederation Fiscale Europeene ("CFE") submitted its opinion on the CCCTB to the EU institutions. The CFE regards the introduction of the CCCTB as an opportunity for greater harmonization at the EU level of tax and accounting statements for entities that do not apply International Financial Reporting Standards ("IFRS") but rather comply with EU accounting legislation. The CFE supports the CCCTB proposal, but with certain reservations, including: (i) the lack of clarity on the applicability of the Directive to third country companies; and (ii) the need for more clarity in the definitions included in the Directive.

EU Tax Centre Comment

According to the European Parliament's website, further discussions on the CCCTB proposal are scheduled for February and March 2012. Once the Council has received the EP's final official opinion, the legislative process can move forward with voting at Council level. If Ecofin ministers do not reach a unanimous decision, Member States in favor of the proposal may decide on enhanced cooperation which could result in adoption of CCCTB in a limited number of Member States.

To access the KPMG Guide to CCCTB or sign up for further updates please click [here](#).

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax adviser.

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