

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 term 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

The information you provide on this page is for administrative purposes only and will not be published.

* Are you replying as

- | | |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------|
| <input type="radio"/> Private individual | <input type="radio"/> Consumer organisation |
| <input type="radio"/> Enterprise, company | <input type="radio"/> Trade/Business/Professional association, consultancy, law firm |
| <input type="radio"/> Public authority | <input type="radio"/> Academic institution, Think Tank |
| <input type="radio"/> Non-governmental organisation (NGO) | <input type="radio"/> International organisation (other than NGO) |
| <input checked="" type="radio"/> Other | |

* If other, please specify

Educational and Representative Body

* Name of your organisation

Irish Tax Institute

* Contact email address

alucey@taxinstitute.ie

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

- Yes
 No

* Please indicate your Register ID number:

08421509356-44

* 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?

Ireland 

* Do you have taxable presence in any other country?

- Yes
- No
- Don't know

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

- | | |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Electricity, Gas, Water Supply, ... |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Wholesale and Retail Trade |
| <input type="checkbox"/> Financial and Insurance Activities
(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

Educational and Representative Body

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**.
- No**, I do not want my response to be published.

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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 not designed as a tool to counter aggressive tax planning - it was introduced in 2011 as a simplification measure to reduce the administrative costs for businesses operating across EU borders. However, independent research carried out by Irish business on the proposal at the time (attached) concluded that CCCTB would result in both higher administrative costs and a higher overall global effective tax rate for multi-national companies operating in the EU.

Our members have been working intensively with both the OECD and the EU over the past 2 years to agree a workable framework for tackling BEPS and we fully support this work. The OECD recommendations have been published and the EU is examining the uniform transposition of these recommendations in Member States which is very important and will help prevent unilateral implementation. We are expecting a draft EU anti-BEPS proposal in January to deal with this very issue and there is also important work being done at EU level on eliminating hybrid mismatches, exchange of tax rulings between Revenue authorities and a common EU approach to transfer pricing risk assessment. The tax planning which the CCCTB seeks to address (as set out in the consultation document) is being dealt with by the EU right now in a comprehensive manner through the suite of measures outlined above which are properly targeted at BEPS behaviour.

By contrast, CCCTB would be a fundamental redesign of the EU corporate tax regime rather than a carefully targeted approach to BEPS. It would introduce a second wave of far reaching change for business and Member States before the BEPS recommendations have had a chance to be implemented which we believe is premature and would be very costly for business operating in the Single Market.

- * 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

The introduction of either a CCTB or CCCTB on a staged basis will create a huge amount of uncertainty for companies operating in the EU and will come at a time where businesses are already experiencing great change.

Consolidation was an extremely important aspect of the original CCCTB proposal and one on which there was very little consensus. We do not believe there is merit in moving forward with discussion on a CCTB, only to find that a CCCTB cannot ultimately be achieved.

In our view, efforts are better focussed on dealing with the targeted BEPS reform above, so that the international tax framework which emerges from the BEPS process can restore public trust and importantly so that attention can also turn to the very important issue of supporting EU trade and investment.

- * 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

It is important that the OECD principles are adopted consistently within the EU where possible. The introduction of a common approach in relation to hybrid mismatches and preferential IP regimes, together with enhanced transparency measures (e.g. country-by-country reporting and automatic exchange of tax rulings) are the best ways to counteract BEPS.

However, much work remains to finalise a number of the other BEPS actions and many of these contain significant elements of optionality which need to be considered by Member States. Governments must retain the flexibility to decide which measures to implement, and the manner in which these are implemented. It is imperative that the sovereignty of Member States over direct tax matters is not weakened.

It is important for business certainty and international competitiveness that any measures introduced by the EU do not go beyond the recommendations put forward by the OECD, thus ensuring that Member States, and the EU as a whole, operate on a level playing field with non-EU members of the OECD.

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

Optionality was a key component of the original CCCTB submission. The focus then was to achieve simplification through reduced compliance costs. But it was recognised that a CCCTB would not achieve this goal for all companies given variables such as size, geographical footprint and industry type.

It is even more important now that companies are not forced to adopt CCCTB, at a time when they face increased costs and uncertainty as a result of the BEPS recommendations.

* 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 are not in favour of a mandatory CCCTB.

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

The BEPS project provides recommendations in respect of some of these points. Other points in this list go beyond the BEPS recommendations entirely and would require very careful and separate consideration from any discussion on a CCCTB.

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:

While a CCCTB might address intra-EU mismatches, it would not deal with arrangements involving non-EU parties. This would lead to increased technical complexity, particularly in terms of Member States' obligations under tax treaties.

The OECD has put forward recommendations on Hybrid mismatches as part of Action 2 of the BEPS project, while the EU Code of Conduct Group has presented proposals on hybrid branches. We believe that these recommendations should be implemented by Member States, where appropriate, before any consideration is given to supplementing these measures. It is important that the any measures introduced on Hybrids are consistent with those being put forward by the OECD.

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

As set out in the Europe 2020 Strategy, one of the key objectives of the EU is to increase investment in R&D in Member States. It is important that the EU remains an attractive location for R&D in comparison to competitor territories, e.g. U.S., Singapore.

In order to remain competitive, we believe that Member States should have flexibility to design tax policy for R&D as they see fit within a BEPS framework (e.g. to the extent that there is a local nexus).

- * 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

As above, we believe that Member States should have the flexibility to retain / introduce R&D tax credits or super deductions.

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

We do not believe that debt bias is driven mainly by tax reasons as is suggested in the consultation document. Equity financing is not readily available in the EU, a fact that has been recognised by the European Commission in the Action Plan on Building a Capital Markets Union. The Action Plan notes that Europe is behind the U.S. in terms of alternatives to bank financing. It is imperative that any changes do not further impact the financing options available for businesses in the EU and that they take account of the differing debt finance policies within different industry sectors.

It should also be noted that the OECD has put forward recommendations on interest deductibility as part of Action 4 of the BEPS project. Much work remains to be finalised in relation to this Action, particularly as regards the implications it may have for certain industry types and for group financing functions located in smaller economies. We believe that the provisions of this Action should be agreed upon and implemented by Member States, where appropriate, before any consideration is given to taking additional measures.

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

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.

We are in favour of cross border loss relief but believe that this can be achieved through simpler mechanisms than a CCCTB.

In a CCCTB, any loss relief is likely to be determined by way of apportionment factors and we believe that it will be difficult to reach consensus among Member States on an appropriate methodology. Instead, we believe that the allocation of losses could be more effectively determined through the use of standardised arm's length transfer pricing principles.

Comments (optional):

2000 character(s) maximum

8

Final remarks, additional information

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

Ireland has been committed to the BEPS project since the outset and has already taken active steps to introduce a number of the recommendations put forward by the OECD. These include the introduction of a compliant Patent Box regime and Country-by-Country Reporting. Ireland has also adopted best practice EU and international provisions in relation to the automatic exchange of information.

The European Parliament states that the power to levy taxes is central to the sovereignty of EU Member States. The Institute believes that a CCCTB could potentially be an erosion of tax sovereignty. A common base does not take account of the different needs of different economies. Countries need the flexibility to set their base to suit their economic policies, whether this is to stimulate growth in certain industries, alter their tax revenue mix, or fund capital investment. This is particularly important for those countries with small economies. Removing this flexibility could damage the economies of Member States

and, as a result, damage the EU.

As we move into the BEPS implementation stage, many MNC's are reconsidering their business models and the location of their core business operations. It is important that the EU positions itself as an attractive location for these MNC's, however, we believe that the introduction of a CCCTB will only add further complexity for businesses operating with the EU. Many countries have introduced huge complexity into their domestic tax codes to prevent tax avoidance but these unilateral rules could not prevent the kind of international avoidance targeted by BEPS. In fact, these rules often put that jurisdiction at a disadvantage compared to others. A CCCTB that was focused on intra-EU tax avoidance would have the same effect and would provide a potential advantage for businesses with operations or headquarters outside of the EU.

Some of the practical implications of a CCCTB for businesses would include the following;

- **Impact on Effective Tax Rate:** Due to the proposed apportionment factor, a greater proportion of income would be taxed in Member States with higher corporate tax rates. These factors don't fully reflect the activities to which profits are currently allocated. The resulting impact on effective tax rates would damage the competitiveness of the EU as a place to invest compared to the rest of the world.
- **Time incurred on filing tax returns:** While local subsidiaries would no longer be required to prepare local tax returns, any time saved would be outweighed by the additional work required at the parent company level to manage the consolidation aspects of the consolidated return. In addition, the correspondence with local tax authorities would have to be routed through the central tax function, which would most likely result in an increased administrative burden.
- **Information Disclosure:** Companies operating within a CCCTB would need to disclose a significant amount of information to tax authorities in supporting the formulary apportionment. This would include details such as location of final customers, staff breakdown, payroll costs etc and goes beyond the information required under the OECD's Country-by-Country reporting proposal.
- **Financing Costs:** Interest is a real cost of doing business within the EU and tax relief on interest payments is taken into account in determining the viability of investment opportunities. If the CCCTB introduces rules on interest deductibility which are more restrictive than those proposed by the OECD, this is likely to drive financing activity, and business as a whole, outside the EU.
- **Transfer Pricing:** The elimination of transfer-pricing related costs is often identified as a major benefit of the CCCTB. However, arm's length transfer pricing will still be required for accounting

purposes, while transactions involving non-EU parties will be subject to OECD-based transfer pricing principles. In fact, the additional costs incurred in determining the formulary apportionment will increase the cost burden on MNC's.

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.

- [a5ce8360-1c0d-449e-892f-c58a7084343a/EY CCCTB Report for ITI.pdf](#)

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)

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)

Privacy statement for this public consultation

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

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