

The Common Consolidated Corporate Tax Base: What You Need to Know

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- Overview
- History
- Main provisions of the CCCTB
- Implications of the CCCTB
 - Who will opt for the CCCTB?
 - Who wins under the CCCTB? Who loses?
 - Will the CCCTB make the EU more competitive?
 - What does the CCCTB mean for aggressive tax positions?
 - Will the CCCTB become law?

Overview of the CCCTB

- One-stop shop for direct corporate taxation
- Goals:
 - Achieve benefits of Single Market
 - Achieve tax neutrality between domestic and cross-border activities
 - End overtaxation due to disallowance of cross-border offsets
 - Find better solution to transfer-pricing concerns
 - Reduce compliance costs

History of the CCCTB

- 2001 – Commission proposes idea of single tax base
- 2004 – CCCTB Working Group created
- 2008 – Tax Commissioner does **not** introduce CCCTB
- 2011 – Commission proposes CCCTB directive
- Goals:
 - 2013 – unanimous Commission vote
 - 2013-2016 – implementation period

Preliminary Questions

- Why now?
- Who supports the CCCTB?
- Who does not support the CCCTB?

Main characteristics of the CCCTB

- (1) Eligibility
- (2) Optional adoption
- (3) Calculating the base
- (4) Allocating the base
- (5) Applying rates

Is the taxpayer eligible?

- Only applies to:
 - Companies resident in Member States – **not** their PEs in third countries
 - PEs of companies not resident in Member States that are themselves Member State residents – **not** their parent companies
- Must be a corporate taxpayer defined in Annex I **and** subject to corporate taxes defined in Annex II
- Single corporate taxpayers **are** eligible
- Group requirements:
 - 50% control **and** 75% ownership

How does the taxpayer opt in?

- Opting in means national direct tax rules no longer apply
- All eligible group members must opt in
- Opting in applies for five years
 - Followed by terms of three years

How does the taxpayer calculate the base?

- Consolidation permitted
- No loss carryback
- R&D costs are fully deductible
- Depreciation of fixed assets:
 - 40 years for buildings, 15 for long-life tangible, 15 for intangible, 4 years for other fixed
- Profits and losses from transactions between members are ignored
- Base predicted to be 7.9% **broader** than current base

How does the taxpayer apportion the base?

- 1/3 labor
 - 50% payroll
 - 50% number of employees
- 1/3 assets
 - Includes R&D, marketing, and advertising costs from past 6 years
- 1/3 sales
- Safeguard clause allows alternative methods

What rate does the taxpayer apply?

- Member States apply their own rates to allocated portion of the base
- Member States can have different rates for CCCTB taxpayers and national-base taxpayers
- Will CCCTB make rates go up or down?

Who will opt for the CCCTB?

- Groups with cross-border losses
- Groups operating in multiple Member States
- Smaller groups operating in fewer Member States if compliance costs are high
- Groups whose income will be apportioned to lower-tax jurisdictions
- Overall: taxpayer who will pay less under CCCTB than under national systems

Who wins under the CCCTB?

- Newer members with lower rates
- Countries with greater economic activity under labor/assets/sales formula than current bases acknowledge

Who loses under the CCCTB?

- Member States that lose income share under 3-factor formula
- Member States that currently benefit from aggressive tax positions
- Recipients of compliance costs

Will the CCCTB make the European Union more competitive?

- Will likely reduce overall tax revenue within European Union
- Could potentially lead to higher rates
- May make groups or single corporate taxpayers more likely to open a subsidiary within European Union

What does the CCCTB mean for aggressive tax positions?

- General anti-abuse rule:
 - “Artificial transactions carried out for the sole purpose of avoiding taxation” are ignored
- Specific rules:
 - Income stripping rule prohibits interest deductions
 - CFC rules
 - Computational rules

Conclusion

- Will the CCCTB become law?
- What are the main lessons of the CCCTB?