

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](#).

The general rules on personal data protection on the EUROPA website are accessible [here](#). On the protection of personal data for this consultation, please follow this [link](#).

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 terms 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

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* Are you replying as

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|---|--|
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| <input type="radio"/> Non-governmental organisation (NGO) | <input type="radio"/> International organisation (other than NGO) |
| <input checked="" type="radio"/> Other | |

* If other, please specify

European Trade Union Federation

* Name of your organisation

European Federation of Public Service Unions (EPSU)

* Contact email address

nsalson@epsu.org

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

- Yes
 No

* Please indicate your Register ID number:

04902121531-04

* 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?

Belgium

* 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.

- | | |
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| <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Electricity, Gas, Water Supply, ... |
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(incl. fund management activities) | <input type="checkbox"/> Professional, scientific and technical activities (incl.
accounting, bookkeeping and auditing activities) |
| <input checked="" type="checkbox"/> Other | |

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100 character(s) maximum

Public services, incl. tax inspectors.

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

EPSU is a strong proponent of corporate taxation as one of the most progressive taxes. We are concerned by the long term shift of taxation from capital to labour and consumption, epitomised by the decline in both nominal and effective corporate tax rates. The principle that the broadest shoulders should bear the greatest weight is central to the European social model and is something that should be promoted and safeguarded. This necessitates a reversal of this long-term trend, and as such the CCCTB should increase the total amount of corporate taxes collected. It is for this reason that we advocate a 25% minimum corporate tax rate across Europe to redress the balance, prevent tax competition and safeguard the European social model. The CCCTB can certainly be an effective tool against aggressive tax planning, but only if it designed in such a way that it cannot facilitate a continuation of current, or the creation of new, tax avoidance strategies by some

multinational companies. An appropriately designed CCCTB would serve to level the playing field in the single market between cross-border companies, who can currently benefit from lower effective tax rates through profit shifting, hybrid mismatches, etc., and SMEs who normally do not have recourse to such methods of reducing their tax bill. Tax avoidance by MNCs on the industrial scale that has recently come to light is bad for business as it skews the market and gives an uncompetitive advantage to these MNCs over SMEs. As such, strong anti-tax avoidance provisions are inseparable from the competitiveness case for CCCTB.

To ensure the CCCTB fulfils both these objectives, and does not leave opportunities for unfair aggressive tax planning by multinationals, it must include strong General Anti-Avoidance Rules as a disincentive to MNCs who may be tempted to find new methods of cross-border aggressive tax planning.

- * 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

EPSU is extremely concerned that a staged approach would not solve either of the problems the CCCTB has been set to address, namely aggressive tax planning or the so-called administrative burden. Any temporary relief mechanism would likely be more complicated for business than immediate and full consolidation. It likely, therefore, that such a staged approach, particularly when accompanied by temporary relief mechanisms, would create new opportunities for aggressive tax planning, particularly by MNCs with the resources to find new loopholes. This would only store up more problems for the future, create more opposition to consolidation and further erode the corporate tax take. Politically speaking, a lack of consolidation would only add grist to the mill of opponents who claim that consolidation is unworkable. The Commission must grasp this opportunity, when there is considerable public awareness of the problems of aggressive tax planning, to implement a durable system for the long term.

- * 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

Whilst we agree that OECD BEPS actions should be implemented in a uniform fashion across the EU, the OECD's anti-BEPS recommendations should not be used as an excuse not to take further action at EU level. The OECD actions are naturally designed to accommodate the breadth of systems at this international level. As such, OECD BEPS should be taken as a minimum to be built on, as much more rigorous action is required to take account for the integrated nature of the single market. The relatively protracted process of implementing the anti-BEPS actions at international level cannot be used as a reason to not take immediate action in the EU.

We would support the implementation of anti-BEPS measures based on the lowest recommended band of interest reduction, ie 10% of EBITDA, with the option of group-wide limitation. Furthermore, Controlled Foreign Corporation (CFC) rules should be designed on a full-inclusion basis, as the most effective option for protecting the tax base in both the source and resident country.

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

Particular attention needs to be paid to companies that have relationship of interdependence but possibly not of ownership. A key example of this are MNCs who run their European businesses on a franchising model. It is very important to note that several major companies under the spotlight for aggressive tax planning have employed franchise models that would seem to facilitate that end. Here the cases of Starbucks and McDonald's are of particular interest. Therefore, a definition of a 'group' that does not take the franchising model into account and include MNCs that use this model to shift profits will not be effective in tackling aggressive tax planning. Indeed, it may merely mean that more MNCs employ this model to reduce their tax obligations.

* 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

As mentioned above, EPSU would support a more comprehensive definition of what companies should be subject to CCCTB. We would like all companies to be subject to the same tax-base in order to reduce the possibility of mismatches and to level the playing field. However, in the absence of this, we would be cautious about an opt-in system as it could open up the possibility of companies choosing to opt in as part of new aggressive tax planning strategies.

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

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:

A much more durable and efficient solution to this problem would be single-stage implementation. The above paragraph highlights very succinctly why a two-stage approach would be problematic. We would reiterate our support for full-inclusion CFC rules to ensure that if a payment is not taxed in a source country it would be in the receiving country. Furthermore, we believe Europe-wide GAARs would be an effective failsafe to ensure that aggressive tax planning not prevented by CCCTB can also be tackled. There is always the possibility that MNCs will develop new aggressive tax planning strategies compatible with a CCCTB in Europe, such as using unforeseen loopholes or uncooperative third party jurisdictions. Strong European GAARs would futureproof the CCCTB against new tax avoidance strategies.

6.2

Treatment of costs for Research and Development

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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

EPSU is very concerned about the proliferation of IP boxes, knowledge boxes and other reductions for intellectual property and R&D over recent years. We do not think that MNCs should receive generous tax discounts for something, such as R&D, which is a normal business activity and which brings significant advantage to a company in the form of more profits, increased market share, etc.

Existing R&D tax incentives have been used as a strategy of aggressive tax planning by some MNCs, without resulting in any real investment in the relevant MS. McDonald's use of Luxembourg's IP box is a good example of this, where there is no discernible R&D activity in that country. See 'Unhappy Meal' http://www.notaxfraud.eu/sites/default/files/reports/enUNHAPPYMEAL_final.pdf.

Tackling these abuses should be the priority in terms of how R&D is dealt with in the proposal.

- * 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

If R&D tax deductions are to be included in the CCCTB they must be strictly based on where the genuine costs of R&D are incurred. EPSU is opposed to the proliferation of R&D deductions as a form of 'race to the bottom' tax competition, as we are currently seeing between many MS. A more unified approach to these deductions, without challenging their premise may only

reproduce the problems of tax competition in the EU on a global scale. The public services used by citizens and by business, which taxation funds, should not suffer in order to deliver tax breaks whose principal beneficiary is shareholders. There are other ways of fostering innovation that do not negatively impact on public revenues and that create more jobs and economic activity, such as investment in higher education and government-backed research.

Finally, further encouraging special tax regimes for IP or royalties prioritises one form of corporate income over others and lends an unfair advantage to companies in sectors which are better placed to take advantage of such reductions. Any R&D aspect of the CCCTB should seek to phase out such patent or knowledge boxes. OECD BEPS will not mitigate the downward pull of tax competition that these instruments generate. The newly announced Irish knowledge box, which has been hailed as the first BEPS-friendly knowledge box, is evidence of this. As such, European action must be taken.

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

EPSU would be concerned at any further deductions for financing that may come by 'redressing' this balance by extending reductions to equity financing. The use of intra-group loans is a common form of profit shifting. If CCCTB is to be an effective instrument against tax avoidance then this must be addressed, further deductions for equity would not appear to do that.

The tax deductibility of debt is a serious problem which needs to be tackled either in an anti-BEPS directive or via other legislation. It provides an incentive to multinationals, especially when they do business in developing countries, to adopt tax avoidance schemes based on intra-group lending.

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

If you suggest that another option would be better suited to address the debt-equity tax bias, what design would you suggest? Please explain your response and/or provide further comments:

The adoption of the ACE or COCA is a tax subsidy to capital owners with a high cost to public revenues. These deductions don't benefit society (neither in terms of more investment, more jobs or extra growth in GDP) commensurate to the costs.

In Belgium, for example, the debt-equity bias was addressed by implementing an ACE. The decline in tax revenue was substantial but engendered no (lasting) increase in investments or in job creation (pp. 171 - 172

http://docuфин.fgov.be/sites/default/files/downloads/csf_fisc_rapport_2014_08.pdf).

We see no justification for an approach that would reward companies with benefits for standard business activity of raising money from shareholders and then paying a return.

While we would view the CBIT more favourably, we would need clarity on the final design of any proposal before making a final judgment, particularly given that CBIT remains a fairly theoretical system whose outcomes can be affected drastically by its design.

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
- Don't know
- Neutral
- Other
- I'm **against** such a temporary mechanism

Which other measures could temporarily substitute the absence of consolidation?
Please explain your response and/or provide further comments.

Comments (optional):

2000 character(s) maximum

EPSU is opposed to the two-stage approach for the reasons outlined above. We are concerned that temporary cross-border relief mechanisms would create new possibilities for aggressive tax planning.

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Final remarks, additional information

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

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.

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/tax

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/tax

Privacy statement for this public consultation

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

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