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 consultati n 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 quipment 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

The information you provide on this page is for administrative purposes only and will not be published.

*Are you replying as

- ○ Private individual
- ○ Enterprise, company
- ○ Public authority
- ○ Non-governmental organisation (NGO)
- ○ Other
- ○ Consumer organisation
- ● Trade/Business/Professional association, consultancy, law firm
- ○ Academic institution, Think Tank
- ○ International organisation (other than NGO)

*If other, please specify

Professional association

*Name of your organisation

Tax Executives Institute, Inc.

* Contact email address

bshreck@tei.org

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

- (x) Yes
- ( ) No

* Please indicate your Register ID number:

52413445902-12

* Do you carry out or do you represent activities at:

- [ ] National level (your country only)
- [ ] EU level
- [x] International level (beyond EU)
- [ ] Other

* Where are your headquarters?

Other country

If other country, please specify:

100 character(s) maximum

United States

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

- [ ] Manufacturing
- [ ] Construction
- [ ] Financial and Insurance Activities (incl. fund management activities)
- [ ] Other
- [ ] Electricty, Gas, Water Supply, ...
- [ ] Wholesale and Retail Trade
- [x] Professional, scientific and technical activities (incl. accounting, bookkeeping and auditing activities)

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?

- (x) **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.

* I declare that **none of the information I provide in this consultation is subject to copyright restrictions**.

- (x) **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
(x) Other

Comments (optional):

2000 character(s) maximum

The OECD's approach to issues raised by mismatches among domestic laws is to encourage coordination between states and their domestic laws, as well as the refinement and reinforcement of the arm's length standard (ALS) to guide profit allocation between related companies across borders.

Thus, a multinational enterprise (MNE) whose activities are not mostly within the EU (or the countries opting for the CCCTB regime) must comply with amended, updated tax laws and treaties in countries following OECD guidelines that utilise the ALS. Mismatches between the EU and other countries, particularly as tax treaties grant relief based on the ALS, would likely increase if the EU adopted a CCCTB departure from the ALS. For example, how would tax be imposed and treaty relief apply to an EU permanent establishment (subject to the CCCTB) of a non-EU MNE (subject to the ALS)?

The adoption of the CCCTB on a compulsory basis by a large number of OECD member countries before the full implementation of the BEPS project and any opportunity to determine the benefits would regrettably indicate the ALS and BEPS approach has been discounted.

The full adoption of CCCTB within the EU, including full consolidation and

assuming (which is far from given) proper implementation, may reduce the opportunities for tax mismatches and planning for activities carried out wholly within the Member States. The adoption would also provide business with greater certainty and potentially ease compliance burdens and cross-border tax disputes. However, the unclear interaction between CCCTB and the ALS may create opportunities for aggressive taxpayers.

Further, the modifications created by CCCTB may affect the allocation of MNE investment between Member States, as tax planning will now take place via resource allocation (employees, assets, etc.) to those States with a lower tax rate. This is likely to accelerate the corporate tax rate "race to the bottom" among Member States.

* 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

Consolidation is the principal attraction of CCCTB for MNEs as it may reduce administrative costs and complexity through a single EU-wide standard if implemented via a single "one stop shop" tax administration. The additional cost of using a different tax base and methodology for one part of a MNE's business activity when not consolidated may outweigh the reduction in cost and complexity from a common base, as well as the risk and complexity of dealing with bilateral treaty issues. Therefore, a staged approach, with no firm commitment to move toward consolidation within a brief time period, would create costs and risk for MNEs, with limited benefits.

Moreover, there will be no reduction in complexity unless Member States align their accounting and tax regulations. The cost of transition to a CCCTB will thus be wasted because MNEs will still need to account for differences between accounting and tax bases for each country.

The methodology used to allocate profits between member states ("allocation keys") is also critical. The exclusion of intangible assets in the current proposal is a primary concern as such assets are increasingly important for many MNEs. The exclusion will not assist in truly aligning taxation of profits to where value is created.

Experience indicates unless all states within the United States use the same allocation keys on a consistent basis, double taxation and competition between states often results (and this is in fact the case). TEI fears a staged approach will end at the common corporate tax base stage, without achieving the business benefits of a CCCTB with a single tax administration. The staged

approach appears to be a way to delay, perhaps permanently, the contentious issue of devising allocation keys for consolidation.

Finally, TEI recommends all EU countries adopt the CCCTB simultaneously as the administrative benefits will only be fully realised if all Member States adopt the CCCTB regime.

* 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?

- (selected) 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

The alignment of anti-BEPS measures across Member States should be of benefit to both States and MNEs because it should limit inconsistencies between Member States and would provide greater certainty for business. However, it is unclear why CCCTB would be an appropriate mechanism to align anti-BEPS measures, particularly before the common tax base rules have been agreed between Member States.

More broadly, the primary advantage of a CCCTB to business is it would be both voluntary and include consolidation. Agreement among Member States on a mandatory, common corporate tax base - i.e., without consolidation - would thus remove the two primary benefits to business of a CCCTB. In addition, harmonised reporting requirements and a "one-stop-shop" tax administration for filing and examinations would also result in significantly reduced compliance costs for business. Thus, while a common corporate tax base would provide some simplification for business and generally be helpful, without the other features mentioned above the benefit are greatly minimised.

Finally, as noted above CCCTB would be inconsistent with the ALS and create complications for MNEs operating in jurisdictions adopting different approaches.

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

For businesses that have operations both within the EU and in other parts of the world, there will be an ongoing requirement to comply with the ALS for intra-group transactions under the other countries' domestic tax laws, the relevant double taxation agreements, and the other regulatory requirements utilising the ALS (e.g., customs regulations, VAT and similar taxes, certain corporate laws).

The change to systems and processes to comply with CCCTB rules, in addition to retaining the ability to provide data complying with the previous rules continuing to apply in other countries, is likely to be a significant challenge and will require material resources. Making this change for all group companies, which for many groups will require changes to multiple systems where there is no single integrated ERP system, creates additional costs and risk.

There are also concerns about how existing tax balances, including tax losses brought forward in different companies and countries, and current and deferred timing differences would be dealt with in the transition to CCCTB. This could have a significant effect on businesses' asset and shareholder values as reported in their financial statements. This is a substantial transformation process and should not be imposed on MNEs at short notice.

* 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
- [x] Neutral
- [ ] I'm **against** this option
- [ ] Don't know
- [ ] Other

Comments (optional):

2000 character(s) maximum

No comments.

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
- [x] Other suggestion
- [ ] None of the above

* Please specify your other suggestions

2000 character(s) maximum

EU Member States have different tax regimes, took measures to address tax avoidance before the BEPS project, and have also taken additional measures over the past two years as the project ran its course. The variety of measures taken reflect the different corporate and tax law principles that have evolved in each Member State and their specific fiscal policy concerns. Considering the different approaches to residence, taxation of dividends, and treatment of participations, it is not currently at all clear how the CCCTB would change this, making it difficult to conclude whether "the CCCTB system" should be reinforced. However, as the BEPS project has not yet been completed and implemented, it would be advisable for countries to implement the final BEPS recommendations in a coordinated way rather than add additional elements, such as the CCCTB, before even assessing the impact of the BEPS measures.

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:

The OECD published a detailed report in October 2015 recommending coordinated action by countries to eliminate hybrid mismatches arising from both hybrid entities and hybrid instruments and it is expected that most OECD countries will implement these rules, creating a common international standard. The creation of a separate and overlapping set of rules operating solely within the EU and following an approach that appears to have been rejected by the OECD in arriving at its recommended solution creates significant additional uncertainty. This would not be required if the OECD approach is successful. Any recommendation to change the treatment of hybrid mismatches within the EU should therefore be deferred at least until the effectiveness of the implementation of the OECD approach has been assessed. Moreover, the originally proposed CCCTB project has proposed rules on controlled foreign companies, which would in part address the issue of hybrid mismatches.

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

No comments.

* 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

Many countries, whether Member States of the European Union or not, use targeted tax incentives to influence investment decisions by MNEs that are seen as providing long term economic benefits to the country. The OECD BEPS project has endorsed the understanding that individual countries have a sovereign right to introduce tax incentives, provided they are not considered "harmful." R&D incentives established at the EU level would be inconsistent with this principle.

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

This question cannot be answered before there is common agreement among EU Member States on what should be included in a common corporate tax base.

Action 4 of the BEPS project recommended restrictions to interest deductions. There is no corresponding restriction on the taxation of interest receipts. While receipt of dividends by corporate entities is typically exempt, there will be an increased taxation of interest receipts, thus partially addressing any such bias.

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

No comments.

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?

- (selected) 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.

Comments (optional):

2000 character(s) maximum

The temporary mechanism is unlikely to fully "balance out" the absence of benefits of consolidation, and would not create any administrative benefit as it would still be necessary to maintain full transfer pricing documentation during this interim stage to compute any losses and profits possibly benefiting from cross border relief.

However, if it is agreed the CCTB should go ahead without full consolidation, then an effective mechanism for cross border loss offset is essential at least at a level consistent with CJEU jurisprudence. It would be preferable, however, if the full CCCTB occurred on day one, which would eliminate the need for temporary cross-border relief mechanisms.

8
Final remarks, additional information

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

Support of the CCCTB by MNEs requires the following general features:

(i) Consolidation

(ii) A comprehensive approach and set of rules addressing interaction with non-EU trading partners' existing rules, which will not change but continue to reflect the ALS (e.g., treaty relief for double taxation)

(iii) Administrative simplification (including an immediate and effective one stop shop for tax administration)

(iv) Optionality

(v) Harmonisation of accounting regulations

(vi) Phase 1 (CCTB) should not proceed without interim cross-border tax relief, and a strong commitment for consolidation as soon as possible (if a staged approach is adopted.)

CCCTB should not be used as a vehicle for addressing anti-BEPS issues which are already being addressed by unilateral and coordinated actions by OECD and G20 members.

Finally, TEI has grave concerns with a "staged approach" to a CCCTB without a mandatory timeline to move from the first stage of a common corporate tax base to a fully uniform CCCTB with allocation keys and rules for intellectual property. Lack of such rules or a timeline, suggests significant risk the CCCTB with the above listed features will never be realised, yet places another administrative and compliance burden on business.

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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