

02.2018_Common_Consolidated_Corporate_Tax_Base_Proposal_for_a_Council_Directive_ BG_MEMR

The proposal for a Council Directive on a common consolidated corporate tax base (CCCTB) is intended mainly to fight tax avoidance. The proposal is not a novelty. As far back as 2011, the previous proposal on the introduction of a common consolidated corporate tax base was published but it was not approved. It was concluded that the introduction of a common corporate tax base had to precede its consolidation. Therefore, the European Commission reworked its proposal and divided it into two directives: a directive on a common corporate tax base (CCTB) and a directive on a common consolidated corporate tax base (CCCTB).

The objective of the CCTB Directive is to introduce a single set of rules for the calculation of the corporate tax base on the EU internal market. The proposal for a CCCTB Directive contains rules for the consolidation of profits and the apportionment of the consolidated tax base to each eligible Member State. The scope of the Directive is set out in Article 1 of the proposal as follows: this Directive establishes a system for a common base for the taxation of certain companies and groups of companies and lays down rules relating to the calculation and use of that base.

Generally, the proposed CCCTB is aimed at attenuating market distortions and overcoming the serious obstacles to the taxation of companies engaging in cross-border activities within the European Union owing to the existence of 28 diverse corporate tax systems.

The proposal is to make these rules mandatory only for certain companies, depending on the amount of the consolidated turnover of the group they belong to, i.e. the Directive is to apply to those companies which are parts of multinational groups with a total consolidated group revenue exceeding EUR 750 million. Companies which have smaller revenue but see the benefits of the harmonized system will be able to opt for the application of the CCTB on a voluntary basis. The main objective is to apply a common tax base to the revenues of the companies operating in several EU Member States and then to apportion the taxable profit to the source Member States on a pro rata basis. Companies will have to comply with the single EU methodology in the establishment of their taxable income. Thus the rules for the corporate income tax of individual Member States will be harmonized from the tax base

perspective.

The common consolidated corporate tax base will be determined in accordance with the Union methodology. The sum total of all profits and losses of the group of companies for each country where they operate will be used to calculate the total tax base. The introduction of the common tax base is expected to largely overcome the problem with the transfer of profits and the avoidance of corporate taxation.

The CCCTB Directive provides for calculation of the total taxes and the apportionment of the taxes to a specific Member State on the basis of a special formula comprising three factors: (i) turnover (sales); (ii) assets, and (iii) labour (number of employees). The objective is to aggregate all revenues of the multinational group at a single place and then apportion the profit in accordance with these three factors to the subsidiary within the group in the relevant Member State. Thus the apportioned share will become taxable at the corporate tax rate established by the sovereign Member States. Each Member State will retain its right to establish and use its tax rates.

The factors mentioned above (labour, assets and sales) should ensure that profits are taxed where they are earned. Thus the Council Directive on the CCCTB will specify only the common tax base but not the tax rate as it is not intended to harmonize the tax rates of the individual Member States.

A special system is envisaged for groups to file their consolidated tax return with the tax administration of the Member State in which the parent company is a local taxpayer.

The single set of rules for the calculation of the tax base and the introduction of a one-stop-shop service aim primarily at preventing tax avoidance and facilitating companies in the expansion of their cross-border operations within the Union. The adoption of the Directive would lead to the treatment of multiple companies as a single entity from a tax perspective. The objections against the proposal relate mainly to the possibility for the apportionment formula to affect the interests of the Member States with easier tax regimes.