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**COVER NOTE**

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from:           The Speaker of Dáil Éireann  
date of receipt: 17 May 2011  
to:             The President of the Council of the European Union

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Subject:        Proposal for a Council Directive on a Common Consolidated Corporate Tax  
Base (CCCTB)  
[doc. 7263/11 FISC 23 - COM(2011) 121 final]  
- *Opinion<sup>1</sup> on the application of the Principles of Subsidiarity and  
Proportionality*

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Delegations will find attached the abovementioned opinion.

Encl.

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<sup>1</sup> This opinion is available in English on the interparliamentary EU information exchange site (IPEX) at the following address: <http://www.ipex.eu/ipex/cms/home/Documents/pid/10>

# DÁIL ÉIREANN

## REASONED OPINION ON THE PROPOSAL FOR A COUNCIL DIRECTIVE ON A COMMON CONSOLIDATED CORPORATE TAX BASE (COM(2011)121).

1. The Commission has not adequately met the procedural requirements (in Protocol 2, Article 5) to provide a *detailed statement* with sufficient quantitative and qualitative indicators, to allow national parliaments to fully assess all the subsidiarity implications in a cross-border proposal of this nature. It is hard to conclude with insufficient evidence that EU legislative action is both necessary and of greater benefit than individual action.
2. The proposal does not meet the comparative efficiency requirements in the necessity or greater benefit tests.

It is not established by the Commission's proposal or impact assessment that

- a. EU legislation is entirely justified as the best way to meet the broader objectives of the proposal. It is not demonstrated that actions by Member States alone (ie informal co-ordination or bilateral solutions) may not be equally effective in tackling the fiscal impediments to cross-border activity that will apparently be addressed.
- b. 27 different national corporate tax systems inherently impede the proper functioning of the internal market. In effect the proposal would introduce a second parallel system for operation within each member state which would not improve the simplicity and efficiency of corporate tax systems in the EU.
- c. There is a greater benefit arising from the limited scope of the proposal as published which appears to be geared towards the needs of very large companies, rather than smaller companies. Start-up SMEs need to see the existing barriers to operating and trading throughout the 27 member states being tackled. That aspect is missing from the proposal and as such the proposal may not be fulfilling its stated objectives.

Indeed this omission has led to some concern that the proposal may suit the larger member states more. This is borne out by research findings showing that Ireland would be among a group of six countries (with Portugal, Poland, Finland, the Czech Republic and Bulgaria) whose businesses will be hardest hit by the CCCTB.

3. It is clear from the Impact Assessment that the proposal may have significant and possibly unequal cost implications between individual member states. There is a lack of concrete and quantified evaluations to justify such a policy outcome, particularly against the clear risk of decreasing budget revenues from corporate taxes, along with the estimated reductions in GDP, employment and foreign-direct investment that a number of member states will experience.
4. In effect then, much of the justification for the proposal is based on assumptions and there is insufficient data available on the implications of this new policy. The Commission itself concedes as much in the Explanatory Memorandum which states that the

*'..impact on the revenues of Member States will ultimately depend on national policy choices with regard to possible adaptation of the mix of different tax instruments or applied tax rates. In this respect, it is difficult to predict the exact impacts on each of the Member States'.*

And yet the proposal would legislate to effectively redistribute the EU corporate tax base amongst Member States, based on new allocation factors. The main weakness not addressed in the proposal or impact assessment is why would the 27 member states legislate for such an unequal policy outcome?

5. Also, by linking the financial impact from the Directive to national policy decisions on direct tax, there is a potential blurring of the competency responsibilities involved. Under

the Treaties the Commission does not have competence in the area of direct corporate tax. No EU legislation should be proposed that indirectly impacts on national sovereignty as a means of remedying any negative financial impact that flows therefrom.

**17th day of May, 2011**