



Council of the
European Union

Brussels, 12 May 2017
(OR. en)

9019/17

Interinstitutional File:
2016/0337 (CNS)

LIMITE

FISC 101
ECOFIN 347

NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. Cion doc.: 13730/16 FISC 170 IA 99 + ADD 1

Subject: Common Corporate Tax Base
– Proposal for a Council Directive on a Common Corporate Tax Base (CCTB)
= Policy debate

I. BACKGROUND

1. As part of relaunching the 2011 Common Consolidated Corporate Tax Base (hereafter "CCCTB") proposal, the Commission put forward end October 2016 a proposal for a Council Directive on a Common Corporate Tax Base, hereafter "CCTB" (doc. 13730/16 FISC 170 IA 99) and a new proposal for a Council Directive on a CCCTB (doc. 13731/16), now limited to consolidation elements.
2. The CCTB proposal lays down common corporate tax rules for computing the tax base of companies within the EU. On this basis, taxpayers would then have to calculate their tax liability by applying the national corporate tax rate and possible tax credits (both out of CCTB scope) applicable in their Member State of residence.

3. The main changes compared to the 2011 proposal are:
 - its mandatory character for large companies (Article 2);
 - a super-deduction for research and development (R&D) expenses to support innovation (Article 9);
 - a new Allowance for Growth and Investment (AGI) to address the debt financing bias (Article 11);
 - and a temporary loss relief (Article 42), pending agreement on the CCCTB.
4. The CCTB and CCCTB proposals were presented to the Working Party on Tax Questions (WPTQ) on 3 November 2016 and followed by a general exchange of views. The impact assessment (doc. 13730/16 FISC 170 IA 99 ADD 2 + 3) that accompanied the two proposals was examined at the same meeting and raised a number of questions, notably on the expected impact on national tax revenues.
5. On 6 December 2016, the ECOFIN Council discussed the way forward concerning the proposals on a CCTB and on a CCCTB, and took the view that work should focus as a priority on the elements of a common tax base (doc. 15315/16). It also invited Member States, as a start, to “*concentrate their efforts on the rules for calculating the tax base and, in particular, on the new elements of the relaunched initiative (chapters I to V)*”.
6. In its EU BEPS Roadmap (doc. 5988/17), the Maltese Presidency announced its intention to start the examination of the CCTB proposal with a view to stabilise the text on its novel aspects (Articles 9-11-42, within chapters I to V) by the end of June 2017.
7. The WPTQ subsequently proceeded with the article-by-article examination of the CCTB proposal, with a particular focus on these Articles, and followed up the discussion on the impact assessment at its meeting of 16 February 2017.

8. This technical examination having revealed some different perspectives across Member States, the Presidency devoted the subsequent WPTQ meeting of 23 March 2017 to responding to concerns and questions raised by delegations, and discussing possible ways forward on Articles 9-11-42.
9. On this basis, the Presidency was then able to propose preliminary amendments to these three Articles at the WPTQ meeting of 26 April 2017.
10. Whilst progress could be made on a number of technical aspects, discussions at working party level confirmed a number of more political issues:
 - impact of the above-mentioned three novel elements on national tax revenues, entailing an element of political opportunity assessment;
 - need for flexibility with a view to enabling national economic policy decisions to be tailored to each Member State's specificities, in particular as regards support to R&D;
 - how to ensure EU's overall competitiveness in terms of corporate taxation vis-à-vis the rest of the world in a context of external pressures and global challenges such as digitalisation.
11. A strategic discussion at the High Level Working Party on Tax issues (HLWP) on 11 May 2017 on the above issues revealed that all delegations agree that:
 - the impact on national tax revenues of the CCTB proposal will be decisive in the final (political) assessment, but technical work should for the time being continue in line with the Council conclusions of 6 December 2016 (doc. 15315/16);
 - the consolidation element of the CCCTB proposal will be essential in ensuring the attractiveness of the system, but the two-step approach whereby "*tax consolidation should be examined without delay once the discussion on these elements has been successfully concluded*" (doc. 15315/16) remains appropriate;

- it is of critical importance that the CCTB ensures competitiveness and attractiveness of the EU and its Member States, as well as tax certainty;
- domestic and international developments and challenges, including those ahead of us, should be taken into account during further discussions of the CCTB proposal.

II. WAY FORWARD

12. Against this background and in view of further technical work on the CCTB proposal, keeping in view the two step approach agreed to by the December 2016 Council Conclusions, Coreper is invited to suggest to the ECOFIN Council to give orientations on the following question:

- In the face of increased international competition and in order to promote the competitiveness and attractiveness of the EU and its Member States; does the C(C)CTB include the right elements that would offer the right mix of harmonisation and flexibility?
