



EUROPEAN COMMISSION

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Dear Chairman,

I would like to thank you for the reasoned opinion of the Dáil Éireann on the Commission proposal for a Directive on a Common Consolidated Corporate Tax Base (CCCTB) {COM(2011) 121 final}, in which you raise concerns in relation to the compliance of the proposal with the principles of subsidiarity and proportionality.

In responding to the Opinion, I will begin with some general remarks on the political context of this proposal and its compliance with the principles of subsidiarity and proportionality, before returning to the specific points raised in the Opinion in greater detail.

National corporate tax systems operate within a context of globalisation, international tax competition and companies which increasingly look beyond borders for market opportunities. However, the co-existence of 27 highly disparate sets of tax rules in the single market means that companies are faced with significant tax obstacles which may discourage and impede their cross-border activities. This divergence in national tax rules reduces the transparency of tax systems and creates obstacles in the internal market which give rise to significant distortions and compliance costs for businesses.

The situation is particularly acute for small and medium sized enterprises (SMEs), which often lack the resources to overcome these inefficiencies and therefore face strong disincentives to expand across borders. Without further action, there is a real risk that this situation will persist, creating unnecessary compliance costs in the single market.

In this context, the CCCTB proposal offers Member States the opportunity to consider corporate taxation from a more sustainable and transparent perspective, whilst allowing businesses to enjoy easier access to the single market. The Commission is convinced that only concerted action at the level of the European Union can address the challenges of corporate taxation in a single market in a systematic manner and thereby secure benefits for businesses and national public finances.

The Commission has taken great care to ensure that this proposal respects fully the principles of subsidiarity and proportionality. The reasoning is set out in the

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explanatory memorandum and recitals to the Directive [COM(2011) 121 final], as well as in the accompanying impact assessment report (IAR) [SEC(2011) 315 final].

In the view of the Commission, the objectives which the proposed Directive seeks to achieve could not be attained by Member States acting alone. Given that the aim of the legislation is to tackle fiscal impediments to efficient cross-border operations resulting mainly from the fragmentation created by 27 disparate tax systems, further uncoordinated action by Member States would not address the fundamental problems and would risk perpetuating or exacerbating them.

The proposal sets out an option for companies of choosing a single set of rules for computing, consolidating and sharing the tax bases of associated enterprises across the Union. Considering the scale and effects of the proposed action, its objectives, to attenuate the distortions resulting from the current interaction of 27 national tax regimes and create more favourable conditions for cross-border investment in the single market, would be better achieved at Union level.

The rules set out in the proposal, such as relief for cross-border losses, tax-free internal group restructurings and the elimination of complex intra-group transfer pricing, address issues that are intrinsically cross-border in nature and could only be resolved within a context of common regulation. National initiatives are unlikely to be as effective at tackling these issues and may create further distortions in the market, notably double taxation or non-taxation. Common rules are also a prerequisite for creating a 'one-stop shop' for companies or groups of companies operating across the EU.

According to the IAR, the CCCTB is indeed expected to create more favourable conditions for cross-border investment in the internal market. It is estimated that it would allow substantial tax-related savings connected with the costs of establishing abroad through a medium sized subsidiary. A representative large parent would save around 62% of the estimated costs incurred in the current situation. The savings would reach 67% in the case of a medium-sized parent. Further, companies would be likely to derive considerable benefits from the reduction in compliance time and costs. Current costs are to be reduced by 7%, which is equivalent to up to EUR 0.7 billion across the EU. The possibility to offset losses across national borders within the same group could also lead to annual savings of EUR 1.3 billion for companies in the EU.

I would like to emphasise that the proposal is proportionate to what is necessary to achieve the objectives of the Treaties.

It does not affect the Member States' sovereignty over the setting of their own corporate tax rates. The CCCTB proposal deals with harmonising the corporate tax base, which is a prerequisite for curbing the identified tax obstacles and rectifying the elements that distort the concept of a single market; it does not entail harmonisation of tax rates.

The CCCTB proposal is also designed as an optional system. It does not oblige companies that do not intend to operate across borders to implement the common rules and bear the associated costs. Naturally, national tax authorities will have to meet certain one-off financial and administrative costs for the purpose of switching to

the new system. It is also true that administrations may choose to maintain their domestic corporate tax rules alongside the CCCTB, which would add to the current cost of running their tax systems. However, in both cases, it is expected that the mid-term positive impact of the CCCTB will outweigh the additional costs.

It is clear that these benefits could not be realised through an approach based on tax coordination alone. While the Commission has consistently promoted the coordination of national tax practices, experience has shown that this approach is slow and the results have hitherto been modest. Moreover, tax coordination typically addresses only specific, targeted issues and is not sufficient to address the wide variety of problems faced by companies in the single market.

The Commission is therefore convinced that the proposed CCCTB Directive represents the most proportionate response to the serious problems identified and is fully in line with the principle of subsidiarity.

Turning to the other specific points raised in the Opinion, the Dáil Éireann is of the view that neither the proposed Directive nor the accompanying IAR establish that the existing 27 national corporate tax systems 'inherently impede the proper functioning of the internal market'. Added to that, the CCCTB is to be considered as only a 'second parallel system' and this 'would not improve the simplicity and efficiency of corporate tax systems in the EU'.

The Commission believes that the co-existence of the CCCTB with another 27 tax systems does not compromise its contribution to simplicity and efficiency for corporate taxpayers. This is because the companies opting for the common rules would no longer be subject to the national corporate tax schemes and would be settling most of their tax affairs by referring to a single tax authority (i.e. the principal taxpayer). By contrast, the current interaction of national corporate tax systems results in mismatches and often discourages companies from expanding abroad, since such a move places companies under a different regulatory framework. The IAR illustrates that the CCCTB would allow substantial tax-related savings.

The Dáil Éireann also expresses concern that the proposed Directive is 'geared towards the needs of very large companies, rather than smaller companies', such as start-up SMEs.

The Commission wishes to stress that the CCCTB is typically open to both multinational enterprises (MNEs) and SMEs. The key question is not the size of the enterprises which might opt for it but rather whether they are (at least potentially) active transnationally.

The Dáil Éireann is of the view that 'the proposal may have significant and possibly unequal cost implications between individual Member States'. It also notes that much of the justification is based on assumptions and that 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'.

Regarding impacts on tax revenues, the Commission would note that Member States' budgetary choices are likely to depend on a variety of factors. For instance, the number of companies to opt for the CCCTB may be one of the elements to consider in this regard. The impact on the revenues of Member States will ultimately depend on national policy choices with regard to possible adaptations of the mix of different tax instruments or applied tax rates.

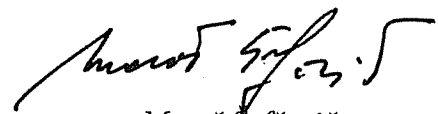
In any case, the Commission would like to clarify that, in the absence of detailed actual revenue data from national tax administrations, gathering quantitative evidence on the impacts of the CCCTB on individual national revenues is particularly challenging and requires the use of both representative and accurate data in the quantification of the future tax charge.

As explained in the IAR, the impacts of consolidation and formula apportionment on the revenues, as measured in that report, do not take into account the effect of all the new rules for calculating the tax base. Overall, such rules would lead to a larger base than the current average tax base in the EU. Moreover, while the quantification provided in the IAR might describe short-term developments reasonably well, the additional cross-border investment which is expected as a consequence of lowered tax barriers would likely add to tax revenues in the longer run.

Finally, the Commission notes that the present area of taxation falls under shared competence. Article 115 TFEU provides the legal base for measures in this area. It is on this basis that the Commission has adopted the present proposal, with the aim of reducing the tax-related obstacles that businesses face in the situations covered by the proposal.

I would like to thank you again for the Opinion of the Dáil Éireann and I hope that these explanations serve to clarify the points raised in the Opinion. I look forward to continuing our political dialogue in the future.

Yours faithfully,



Maroš Šefčovič
Vice-President