Joint Committee on Finance, Public Expenditure and Reform

14 November 2012

European Commission proposals for
A COUNCIL DIRECTIVE on a Common Consolidated Corporate Tax Base (CCCTB) - COM(2011) 121 final

I would like to thank the Committee for the invitation to attend this meeting to discuss the details of the important legislative proposals from the European Commission for a Common Consolidated Corporate Tax Base (CCCTB).

1. Background to the CCCTB

The debate on tax harmonisation in Europe goes back a number of decades. Indeed the White Paper on Ireland's Accession into the then European Economic Community states that "*the Community also intends to introduce a uniform system for the taxation of companies but has not yet worked out proposals on the subject*". The fact that some forty years later such a uniform system is still not in place demonstrates the practical and political obstacles which have to be overcome.

The original idea for a proposal for a CCCTB goes back as far as 2001 when the European Commission put it forward as a long-term measure to provide companies with a common consolidated tax base for their cross-border activities within the EU. It was regarded as a measure which could enhance the EU's Single Market as it was perceived that it would make life easier for businesses which operated in more than one Member State, thereby incentivising cross-border trade.

The outline of a CCCTB was first discussed at the ECOFIN Council in September 2004 where Ministers agreed to refer the issue to a European Commission Technical Working Group, comprised of experts from the Member States, for detailed examination. Subsequently a number of progress reports were submitted to the ECOFIN Council, however, no policy decisions were ever taken on the CCCTB by the Council of Ministers.

After much discussion and media debate the European Commission finally published their proposal for a Directive on a CCCTB on March 16th 2011.

2. What would a CCCTB Involve?

A CCCTB would essentially introduce new common rules for calculating and allocating company taxation across the EU and replace the universally accepted '*separate accounting with arms length pricing*' method for allocating group profits across borders with a sharing mechanism under a system to be known as "***formulary apportionment***".

This new sharing mechanism is essentially a 'rule of thumb' which proposes that the individual taxable profit or base of each company within an international group would be aggregated or pooled to form a consolidated tax base and that consolidated tax base would be re-attributed to those same companies based on their presence in any Member State; that presence being measured by:

- the scale of assets;
- number of employees / payroll costs and
- sales in any Member State compared to the Group as a whole.

Each Member State's share of the profits would then be taxed at national tax rates thereby, it is claimed, preserving national sovereignty over the rate of taxation.

The net impact on a Member State's corporate income tax revenues, as well as on the tax liabilities of specific groups of taxpayers, would be determined by three major differences between current corporate tax systems and the CCCTB.

- Firstly, the CCCTB changes the definition of the tax base. An example would be a change in the calculation of depreciation allowances.
- Secondly, the CCCTB would result in a reduced tax base for some taxpayers by, for example, allowing full offset of cross-border losses among group members and

- Thirdly, the CCCTB would redistribute the resulting tax base across Member States based on the distribution of measures of economic activity.

3. The pros and cons of a CCCTB

According to CCCTB proponents, the wide range of EU company tax systems causes several distortions with respect to cross border activities within the EU. They argue that the need to comply with different rules entails a considerable compliance cost to business. The provisions introduced by Member States to protect their tax bases against profit shifting of multinationals, such as the denial of cross border loss relief and controlled foreign company (CFC) legislation, are also said to entail considerable compliance costs.

Proponents argue that the CCCTB would resolve existing transfer pricing problems, address the lack of cross-border loss compensation by allowing for the consolidation of profits and losses and would simplify many international restructuring operations.

It is maintained that it would reduce some of the complexities arising from the co-existence of the credit and exemption approaches to international taxation and would avoid many situations of double taxation while removing many discriminatory situations and restrictions.

It is also argued that it would in many areas reduce the risk that Member States' tax laws are declared to be incompatible with the fundamental freedoms of the Treaty by the European Court of Justice.

Those who oppose the CCCTB argue that it will damage EU competitiveness, for the following reasons;

- The CCCTB would lead to greater uncertainty for business
- The CCCTB would not be responsive to business
- The CCCTB would be very complex

- The CCCTB may not lead to compliance cost savings for companies or for Governments
- The costs of transition to a CCCTB would be high
- The CCCTB would lead to new types of tax distortions

4. The results of the European Commission's Impact Assessment

The Commission hired a range of economic consultants to examine various aspects of the CCCTB and the results from these studies are brought together in the Commission's Impact Assessment.

The Impact Assessment considers the overall economy wide impact of CCCTB and CCTB (i.e. without consolidation) on investment, GDP, welfare and other economic variables.

Four scenarios are modelled (both optional and compulsory CCCTB and both optional and compulsory CCTB).

The effects on GDP and most economic variables are marginal for the EU overall (less than 1% in most cases). All four options are found to positively impact GDP, welfare, investment, wages and employment but only under certain assumptions regarding the common base. Under other common base options, the effect on GDP, employment, investment and wages is negative.

For CCTB, the differences in the base options are important influencers of the results. As the Impact Assessment notes, although a broader base implies more revenue and so lower tax rates, this effect is countered by a loss of efficiency due to increased distortive effects from the broader base.

For CCCTB, the effects are more positive than the CCTB alone so consolidation and apportionment counter some of the negative impacts of common base.

The Impact Assessment notes that the "lion's share" of the economic effects are due to lower compliance costs.

Formulary apportionment has only a small overall effect, as the reduced profit shifting benefits are cancelled out by new distortions from factor shifting. The Impact Assessment notes that results for individual countries are greater in magnitude.

The Impact Assessment concludes that CCCTB increases welfare overall – but this is only the case for several of the scenarios modelled.

5. The European Parliament's Position

The European Parliament's role in relation to legislative proposals in the taxation area is limited. Unlike in other sectors where the Parliament has an equal say to the European Council by way of co-decision, under the Treaty, taxation proposals are not subject to the same level of scrutiny as, for example, proposals in the financial services area.

6. Ireland's Position

Our scepticism about the CCCTB is well known. Our key message is that we, like a number of other Member States, are totally opposed to tax harmonisation, but are nonetheless willing to engage with the European Commission and other Member States on the issue. In fact, under the Euro Plus Pact we are committed to constructive engagement in the negotiations.

We, as well as others, have sought to offer factual arguments and raise practical questions, for instance on the potential European impact of the proposal, in a constructive manner.

Our approach has been based on the results of an **economic impact assessment,** which was performed on behalf of the Department, which identified:

- an overall reduction in employment and foreign direct investment in the EU under both a voluntary and mandatory CCCTB;
- a reduction in economic activity in the EU and a change in the relative competitiveness of the EU compared to non- EU countries as Europe becomes less attractive for new foreign direct investment;
- the creation of significant winners and losers among Member States through the redistribution of tax bases and also among individual taxpayers and; increasing uncertainty and instability for business.

7. Council Working Group discussions

It is probably safe to say that the discussions at the Council Working Group have being moving quite slowly. While I obviously cannot elaborate on the positions adopted by individual Member States, it is no secret that there is a clear divide between those countries which have expressed strong support for the proposal and those which have doubts about how it would work in practice. While Ireland would be among those with doubts, we remain committed to constructively engage in the discussions.

The Working Group has completed its first line-by-line reading of the proposed text. I think it is fair to say that while some clarity has been achieved, there are still many areas which require a lot of further work.

It is important to emphasise that all Member States are engaged in the discussions, but the technical examination in the Council is still at the early stages. No political decisions have been taken by ECOFIN on the work on the dossier.

8. Next steps

It is the intention of the Irish Presidency to continue the work of the Council Working Group in relation to the proposal. The engagement with the CCCTB is ongoing, and examination of this complex proposal is still at the early stages.

There are still many technical and practical issues to be resolved.

I would be happy to hear the Committee's views and answer any questions that you might have.

ENDS