ABOUT COMMON CONSOLIDATED CORPORATE TAX BASE AND ITS POSSIBLE EFFECTS ON EU MEMBER STATES

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Abstract: *The current lack of coordination among EU Member States regarding the tax system creates difficulties for companies operating within the European Union, as they face 28 different income tax bases, determining significant costs to ensure administrative compliance, with negative effect on European competitiveness. Therefore, a new approach related to the taxation of companies in EU is necessary to achieve the objective of more equitable and efficient taxation in European countries and to effectively combat tax evasion, namely the introduction of a Common Consolidated Corporate Tax Base (CCCTB). In our paper we present the basic notion of common consolidated corporate tax base and present some of its effects in the EU countries, including Romania. In our approach, we use a descriptive methodology, using informational sources from the national and international literature.*

Keywords: *companies, common consolidated corporate tax base, corporate tax, EU countries.*
Jel Classification: *H25.*

1. Introduction

In the form presented in 2011, the CCCTB project had two objectives: firstly, to set a single set of rules for calculating corporate tax that can be used by companies operating within the EU and companies should comply with this system within the European Union to calculate their taxable income. The second objective was to organize the allocation of income taxes thus calculated between Member States; groups within the CCCTB system should submit consolidated tax declarations for their entire EU activity only once. Consolidated taxable profits of the group will be devided between individual companies through a simple formula, allowing each Member State to tax the profits of companies in its State at their national tax rate.

2. Common Consolidated Corporate Tax Base (CCCTB) – concept, advantages and desadvantages

CCCTB represents a single set of rules that companies operating in the European Union could use to calculate their taxable profits. In other words, a company or a group of companies will only have to comply with a single system for calculating taxable income at EU level and not systems with different rules in each of the Member States in which they operate.

In addition, according to CCCTB system, active enterprises operating in several Member States of the European Union will be able to submit a single tax return for all their activities across the EU.

The CCCTB is, in fact, an additional tax regulation with common rules for all Member States. One of its objectives is to eliminate tax planning, in particular compensation for losses, due to separate accounting, debt financing and intergroup transactions.

The CCCTB is considered to have advantages but will also have weaknesses. Among the advantages can be mentioned:

- ✓ alleviating complexity and reducing compliance costs for companies with cross-border activity which will have to apply a single set of rules and the possibility of offsetting losses incurred in one Member State with profits made in another due to consolidation;
- ✓ efficiency in the fight against the profits transfer and abusive tax practices;

- ✓ eliminating disparities between national tax systems;
- ✓ use the preferential regimes for the transfer of profits;
- ✓ removal of the transfer price manipulation etc.

The negative aspects that come with the CCCTB include:

- ✓ increasing the complexity of employees tasks in the government fiscal service, as the introduction of the CCCTB involves a new system, in addition to the current 28 national systems existing in the European Union;
- ✓ fiscal control will cause difficulties because the tax authorities of the Member States must cooperate and coordinate their activities very well;
- ✓ the implementation of the CCCTB does not exclude the possibility of increased tax competition because, in order to attract foreign investment, national authorities will continue to use the reduction of the tax rate as a fiscal facility.

The consolidated corporate tax base requires the establishment of the common tax base, to which is added a distribution formula, which involves a sharing mechanism that should present some features:

- to be as simple as possible for both taxpayers and tax administrations;

- to lead to a fair and equitable distribution of tax bases between the various entities involved;

- not to produce undesirable effects in terms of tax competition.

This formula includes three factors with an equal weight: labor (which in turn will include, in equal weight, payroll and number of employees), assets (all tangible assets, but not intangible and financial assets); and sales by destination.

The calculations for the allocation of the taxable base will be made annually. A positive consolidated tax base (net profit) will be allocated immediately and a negative consolidated tax base (net loss) will be offset in the future at the group level with the profit obtained. If a firm leaves a group of companies that opted for consolidation of the tax base or when a firm joins a group that has opted to consolidate the tax base, consolidation and distribution of the tax base will be made for the fraction of the tax period in which that company was a member of the group.

In general terms, the distribution formula is as follows:

$$\text{Share A} = \left[\frac{1}{3} \times \frac{Sales^{A}}{Sales^{Group}} + \frac{1}{3}\left(\frac{1}{2} \times \frac{Payroll^{A}}{Payroll^{Group}} + \frac{1}{2} \times \frac{Employees^{A}}{Employees^{Group}}\right) + \frac{1}{3} \times \frac{Assets^{A}}{Assets^{Group}}\right] \times CTB \quad (1)$$

The equation above shows a system according to which the distributed tax base would be located in different Member States.

In case one or more factors are not applicable taken into consideration the nature of the firm's activity, all the other relevant factors should be weighed proportionally again within the formula in order to maintain an equal absolute weight of each applicable factor.

We have the following example: a multinational company is comprised of Company A and Company B. Company A resides and sells its production in Romania, and Company B resides and sells its production in Slovenia. Information on sales, salaries, employees and assets for both countries is provided in the table below (Table 1). The corporate tax rate for Slovenia in 2016 is 17% and for Romania is 16%.

Table no. 1. Exemple about the allocation formula

Company	Sales	Payroll and employees	Assets	Taxable income
Company A (Romania)	60	60	60	50
Company B (Slovenia)	80	40	40	60
total	140	100	100	

Sources: own calculations

► When applying the tax rate in each of the two countries, we have:

T (A)= 50 * 0,16= 8

T(B)= 60* 0,17= 10,2

T total= T(A)+ T(B)= 18,2

► Given the application of the apportionment formula, we have the following situation:

T(A) = 0,16*(50+60)*(1/3*60/140+ 1/3* 60/100+ 1/3* 60/100)= 0,16*110*0,54= 9,5

T(B) = 0,17* (50+60)* (1/3* 80/140 + 1/3 * 40/100* 1/3* 40/100)= 0,17* 110* 0,45=7,92

T total = 9,5+ 7,92= 17,42

According to this example, Member States with a higher rate of income tax have a higher total tax burden, and vice versa. This is one of the factors that affects negatively the decision of multinational companies to locate their firms in these countries.

By comparing companies in Romania (profit tax is 16%) and Slovenia (corporate tax is 17%), it can be concluded that it is more difficult for multinational companies to do business in Slovenia because their tax burden is higher. A lower tax burden allows companies to earn more. And by applying the apportionment formula, it is noted that the tax burden falls from 18.2% (before applying the formula) to 17.42% (after application).

The allocation of the formula would significantly change the overall tax burden for the groups of companies. It can also provide incentives for increased tax competition. Increased tax competition under the proposed CCCTB may encourage Member States to further reduce the corporate tax rates.

The effects of applying the formula would result in:

● strengthening and distributing the corporate income tax base will generate tax revenue losses for small states using fiscal incentives, as the tax bases attracted in these countries are high in relation to the real economic activity which are taking place on their territory (measured by assets , turnover and salary fund);

● offsetting losses with earnings generated in cross-border activities will result in a significant reduction in the overall tax base. For example, the Ernst & Young's (2012) analysis, for 1,844 parent companies in Germany and 5,827 foreign subsidiaries, the reduction in the total tax base was estimated at 20%.

3. Potential Effects of CCCTB Implementation in EU Countries

In the specialized literature, studies were elaborated which aimed at the economic and budgetary impact of introducing the CCCTB into the European Union.

An empirical study conducted by Ernst & Young (2012), which assesses the effects of CCCTB find that it would have negligible impact on welfare (0.02% of GDP). Earnings from lower compliance costs and the elimination of transfer prices would be offset by new tax distortions, in particular due to the allocation formula.

As a result, the EU benefits to a small extent from the common consolidation corporate tax base.

Table no. 2. Comparation of the empirical studies results

Study	Objectiv	Results
Devereux & Loretz	Changes in tax revenues Statistical analysis of the financial data	- a 2.4% decrease in EU revenues under the optional CCCTB - increase by 2% of EU revenues under compulsory CCCTB - Significant differences in the modification of Member State revenues.
Fuest, Hemmelgarn & Ramb	Changes in tax base Statistical analysis of the financial and fiscal data	- a 22% decrease in German multinationals tax base - Significant differences in the modification of Member State revenues.
Van der Horst, Bettendorf &Rojas-Romagosa	Welfare change Behavioral analysis	- insignificant changes in economic welfare (0.02% of GDP) due to mandatory CCCTB - the new distortions caused by the CCCTB exceed those determined by the transfer prices - CCCTB would increase competitiveness - Significant differences between Member States regarding changes in company taxes, capital and welfare
Ernst & Young	Static analysis of tax base modification using the financial data Dynamic analysis of economic impact	- a 0.2% decrease in EU revenue under the optional CCCTB - a 0.6% increase in EU revenue under the mandatory CCCTB - a 0.2% decrease in GDP due to mandatory CCCTB - Decline of 0,1% of GDP due to optional CCCTB - Differences between Member States in terms of changes in income, GDP, FDI and employment.

Source: Ernst & Young, 2012. Study on the Economic and Budgetary Impact of the Introduction of a Common Consol idated Corporate Tax Base in the European Union

Thus, the CCCTB would not produce too many effects in the global economy. There are targeted issues concerning the redistribution of the tax base between Member States and the impact that the new system will have on business decisions in terms of increasing real investment or employment among Member States. The effects of a CCCTB depend on the number of participating Member States and on the number of companies opting for this system.

Empirical studies elaborated till present have suggested that a CCCTB would create significant winners and losers, assuming there will be no changes in corporate tax rates in the Member States in terms of corporate income tax. The net impact on a Member

State's income tax and the tax liabilities of certain groups of taxpayers would be caused by three major differences between the current corporate tax systems and the CCCTB:

- firstly, the CCCTB can change the definition of the tax base - an example would be a change in the calculation of depreciation;
- secondly, the CCCTB would result in a reduced tax base for many taxpayers, allowing for full compensation of cross-border losses among group members,
- thirdly, the CCCTB would redistribute the tax base resulted in the Member States on the basis of the distribution of economic activity measures ("factors"). This may differ substantially from the distribution of current law based on the use of separate accounting and determining the location of income.

Some Member States are expected to have significantly higher corporate tax revenues, while other Member States would lose significant income from corporate tax. Those Member States that would lose significant income from corporate tax are less likely to be willing to participate in a CCCTB scheme.

If they participate, they will face various difficulties, as they will have to make some choices: reducing public spending, increasing corporate tax rates or increasing household taxes.

Fewer participating Member States would reduce the potential positive effects of a CCCTB. Also, estimated earnings effects for some countries are determined by a few elements, including:

- the specific factors included in the allocation formula;
- whether the system is optional or obligatory;
- the specific Member States participating in the CCCTB;
- the sample of companies included in the analysis.

According to Ernst & Young calculations (2012), the workforce changes in the context of the mandatory CCCTB, ranging from a 1.6% decrease in Luxembourg to a 0.6% increase in France. GDP declines in Bulgaria and Luxembourg by 3% and in France by 1.1%. The changes are even higher for FDI, ranging from a decrease of 11.7% in Bulgaria, to an increase of little over 5% in France.

In the optional CCCTB context, changes in employment vary from a decrease of 1.4% in Luxembourg to a 0.2% increase in France. GDP varies from -2.7% in Luxembourg to 0.4% in France; changes in FDI vary from -3.2% in Romania to 1.4% in France.

Spain and France benefit from an increase in the number of jobs in the optional and mandatory CCCTB scenarios. In other words, their economies are expanding as a result of reducing effective corporate tax rates on new investment.

Figure 1 shows the winning and losing states due to the CCCTB implementation. The chart classifies Member States according to the variations in estimated corporate tax revenue on the vertical axis and the dynamic changes in employment along the horizontal axis.

Member States in the "Common Loss" quarter, including Germany, Ireland, Denmark and the Netherlands, are Member States that lose both in terms of corporate income and employment under the Compulsory CCCTB of Member States. We note that Romania is also included in this category. Groups operating in these countries tend to face higher

In addition, because they lose income from corporation tax, these Member States either need to reduce transfers to households or increase profit tax rates to balance their budgets, existing an additional negative impact on their savings.

Countries in the "Common Winners" quadrant - France, Spain and Belgium - benefit both from higher incomes and reduced effective tax rates for new investments. Smaller tax rates generate more investment and jobs in these countries.

Due to the increased income collection from corporate tax, these countries can either increase household transfers or reduce corporate income taxes. Both effects operate in the same direction to increase economic activity.

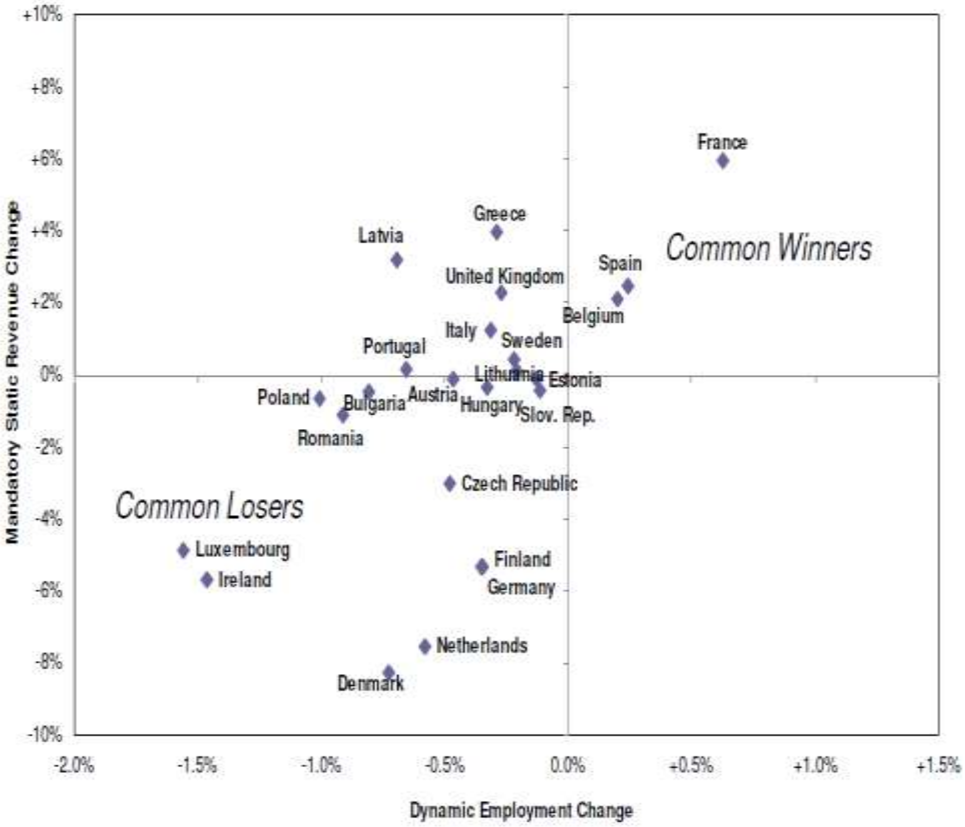

Figure no. 1. Winners and losers resulting from CCCTB application

Source: Ernst & Young, 2012**.** Study on the Economic and Budgetary Impact of the Introduction of a Common Consolidated Corporate Tax Base in the European Union.

An optional CCCTB would require Member States to administer two different systems of profit taxation: the current national system and the CCCTB. This would not reduce administrative or compliance costs.

While there may be some savings ("savings") determined by application of the CCCTB, however can be generated additional administrative costs to governments, costs that may include:

- the costs of functioning two distinct corporate income tax regimes at the same time;
- the requirement to interact to a greater extent with other tax authorities (including linguistic difficulties);
- tax audits may now require a cross-border element. For example, an income tax audit in Germany may require a "visit" at the French group's headquarters to ensure that labor and ownership factors are correctly calculated.

The following table shows the effects on the Member States' tax bases characterized by five levels of change: significant reduction, modest reduction, no significant change, modest growth and significant growth.

Table no. 3. The degree of change in the corporate income tax base due to the implementation of the CCCTB for 27 Member States

Country	Significant decrease	modest decrease	No significant change	Modest growth	Significant growth
Austria				●	
Belgium					●
Bulgaria		●			
Czech Republic		●			
Denmarca			●		
Estonia			●		
Finland		●			
France					●
Germany			●		
Greece			●		
Hungary			●		
Ireland		●			
Italy			●		
Latvia				●	
Lithuania				●	
Luxembourg				●	
Netherlands			●		
Poland		●			
Portugal		●			
Romania				●	
Slovakia				●	
Spaina			●		
Sweden					●
UK			●		

Source: Ernst & Young, 2012**.** Study on the Economic and Budgetary Impact of the Introduction of a Common Consolidated Corporate Tax Base in the European Union

Therefore, three Member States are expected to register a significant increase (more than 5%) in their tax base due to a shift to the common tax base, six Member States would have modest growth, nine Member States would not have a significant change in the tax base (below 1%), while six Member States would have a modest decline in their tax base.

In the course of the analysis, the significant changes in the tax bases of the EU Member States were generated by:

- governmental rules for foreign controlled companies;
- limitation of losses and lack of internal fiscal consolidation;
- restrictive thin capitalization rules;
- tax depreciation;
- favorable tax regimes.

4. Implementation of the CCCTB system in Romania

Regarding the implementation of the CCCTB system, Romania will be able to choose to implement it as an individual tax base or as a tax base, which is an alternative to the existing one. In addition, the replacement of the tax base with the CCCTB would cause transitory problems regarding the transition from the existing tax base to the CCCTB for both Romanian entities and entities that "operate" between the two systems.

The probability of Romania's implementation of the CCCTB as an individual tax base is very limited, more realistic being that it exists alongside the national tax base.

On the other hand, for the Romanian taxpayers who can benefit from the new provisions, the adoption and then implementation of the Directive will be a simplification of the way of calculating and declaring the taxable profit and the profit tax. Also, the possibility of tax consolidation in Romania and offsetting taxable profits obtained in a country with tax losses from another country will be a significant gain for companies that will benefit from the provisions of the Directive.

As negative effects can be mentioned: the lowering of the level of collecting the profit tax (at least in the first years of application) and the fact that under the new conditions the 16% flat tax rate will no longer be a benefit of Romania compared to other Member States.

To this it is added the fear shared by many Member States of losing some of their independence in establishing their own fiscal policies and strategies and also to losing some of the tax advantages already acquired in relation to other Member States. For these reasons, the adoption of the new Directive within a relatively short time frame seems problematic.

In order to determine how the Romanian companies will be affected by this Directive, we should first compare the level of taxation in Romania with that in the other Member States. Since this Directive is eminently focused on direct taxes, we look at the standard corporate tax rate for companies - and 16% of Romania is among the countries with the lowest level of direct taxation in the EU.

However, it would be right to make a comparison of the effective tax rate, but due to the innumerable features of local tax systems, such a comparison is not possible.

We believe that these CCCTB rules will make more difficult to establish the corporate tax obligations and will increase the complexity of tax controls, at least until a directive on the common tax base at EU level is adopted, an initiative aimed at standardizing the rules for calculating the tax base.

It is also necessary, with regard to the CCCTB allocation formula, that Romania should be very careful about the details of its calculation, the impact that the formula will have on both the budget and the attractiveness of our country for investors. Clear, uniform rules for all could help to increase transparency and ease the administrative burden and strengthen good practice.

Any changes in tax regulations in different countries are borne by the final consumer in a given country, all changes mean costs. By consolidating, double taxation is eliminated, and trading costs are incurred at the end.

Therefore, we consider necessary to reduce bureaucracy, improve the relations between taxpayers and the national tax authority (ANAF), the predictability of the fiscal framework.

5. Conclusions

Both the OECD and the European Commission are taking measures to ensure that taxes are paid in the countries where profits are made. Basically, the intention is that groups of companies to use as little profits for tax purposes when moving to jurisdictions where activity is low or nonexistent, instead taxes are low or zero.

By applying CCCTB, it is expected: to allow cross-border loss; reducing double taxation or over-taxation; to reduce opportunities for inappropriate or unintended tax planning for companies, by applying in parallel the corporate tax system in the EU; to introduce an unique approach for declarations and tax assessments; to offer companies the option of applying a common EU tax system; reduction of compliance obligations with transfer prices. The CCCTB has the potential to considerably improve the EU business environment.

However, the implementation of the CCCTB at the level of EU countries, according to the studies developed in this context, will not have the expected impact (or will affect in little extent the economies of the countries applying it) and would create winners and losers. It is also expected three Member States to register a significant increase (more than 5%) of their tax base as a result of the shift to the common tax base, six Member States would have a modest increase (including Romania), nine Member States would not have a significant change in the tax base (below 1%), while six Member States would have a modest decrease in their tax base.

As for Romania, we believe that CCCTB implementation may cause the loss of competitive advantage in the race to attract foreign investment, which always prefers low-tax legislation. However, the Directive will only apply to multinational companies with operations in several European countries. The CCCTB would impose only a unitary method of calculating the taxable profit (total) and a key for allocating it between different states (which should normally not create large differences in taxes compared to the current situation). It is possible, however, to affect Romania's own tax policies by imposing by the Commission a minimum rate of corporate tax (informally, now it is 10%).

The unification of the European tax base, accompanied by a change in the corporate tax rate, is not such a strong inconvenient for Romania. It is important for our country to ensure a favorable business climate, meaning legislative, fiscal, political stability, skilled labor, effective bureaucracy.

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