

# CCCTB – Dead or Alive?

## The latest developments May 2011

*On 16 March 2011, the European Commission proposed a directive for a common system of calculating the tax base of businesses operating in the EU – The Common Consolidated Corporate Tax Base (CCCTB). This is a single set of rules which companies operating within the EU could opt to use to calculate their taxable profits. Companies would file just one tax return for all their activities in the EU. Once the base had been calculated, under the “consolidated” piece of the proposal it would be redistributed to the relevant Member States participating in CCCTB according to an agreed pre-set formula.*

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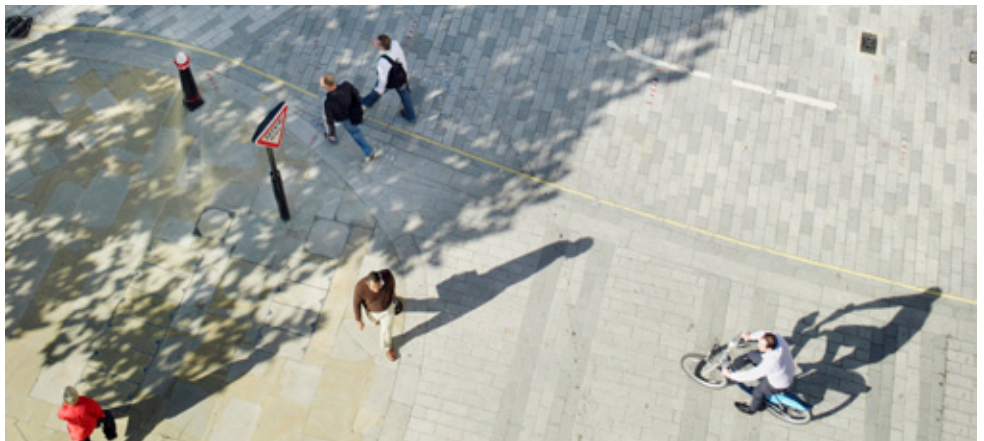
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### **What has happened since March?**

Since the proposal was published, Member States including Ireland have been giving it consideration both at Finance Ministry and National Parliament level.

National Parliaments are required to consider whether European Commission proposals infringe principles of national authority, in other words whether they comply with the principle known as “subsidiarity”.

Both Ireland and UK formally submitted opinions to the EU that in their view CCCTB went beyond the means necessary to achieve the proper functioning of the internal market and so breached the subsidiarity principle.

A number of other countries including Netherlands, Poland, Bulgaria, Sweden and Malta were said to have expressed similar reservations.

The number of objections received to the proposal in terms of breaching the subsidiarity principle is not sufficient to derail it but gives an indication of the uphill battle the Commission would face in trying to pursue the CCCTB plan.

### **What about Germany?**

Of much more interest to the future of the CCCTB plan is news that the German Ministry of Finance has, in an answer to a question from the opposition Green Party, set out the position of its government on the CCCTB proposal.

Germany has said that it opposes the “consolidation” piece of the proposal on the basis that consolidation would erode Germany’s tax revenue. Germany believes it would be a net loser in the apportionment of profits in a consolidated system.

*“It is clear from the Impact Assessment that the (CCCTB) proposal may have significant and possibly unequal cost implications between individual member states. There is a lack of concrete and qualified 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.”*

*Dail Select Committee Report - May 2011*

Germany also believes that an optional system – which would inevitably mean a twin track or dual corporate tax system for those companies opting in or opting out in each Member State – would make corporate tax law in the EU too complicated.

What Germany favours is a mandatory common corporate tax base without consolidation – CCTB. In other words, a uniform system of calculating corporate profits from all companies in the EU, but where each Member State would retain its taxing rights (at its own domestic corporate tax rate) on the taxable profits declared of companies resident in its territory, calculated under new common rules.

### ***What does this mean for the CCCTB proposal?***

Germany’s stated opposition to a Common Consolidated Corporate Tax Base must surely have dealt a serious blow to the chances of the CCCTB proposal, in its current format, ever seeing the light of day, even through “enhanced cooperation” (i.e. nine or more Member States agreeing to implement it on their own).

However, by strongly favouring of a Common Consolidated Tax Base or CCTB, mandatory across all companies in the EU, is this form of the proposal more likely to succeed through the EU political process ?

It is probably too early to say and much attention will be focussed in the coming months on what reaction there will be to the German position from the European Commission and amongst other Member States, especially those which would have been early supporters of CCCTB.

### ***...and for Ireland?***

The doubts being cast by major EU powers such as the UK and Germany on the Commission’s CCCTB proposal is good news for Ireland. The formulary apportionment of profits under CCCTB would result in a shift of profits away from Ireland to countries with greater sales and would so lessen our attractiveness as a place to locate mobile investment.

The “CCTB” version of the plan favoured by Germany would look at first glance to be more benign and potentially a system to which Ireland could sign up. Arguably, the transparency of common tax rules could mean the benefit of our low 12.5% rate would be more apparent as compared with special regimes and ruling systems in other Member States. However, being “locked in” to a community-wide set of tax rules would not give us the flexibility we need to adapt to changing conditions in a nimble fashion. One recent example of this agility is the enhancement of the R&D tax credit in the Government’s recent jobs initiative.

In summary, there is a long road ahead on CCCTB (or even CCTB) and the developments since the publication of the proposal in March have favoured the Irish position of preserving our ability to shape our own destiny in corporate tax policy.

### ***How PwC can help...***

We will keep you to the forefront of developments on the CCCTB proposal and bring you the latest updates as they arise. We can also help you, through a proprietary modelling tool, calculate the potential impact of CCCTB or CCTB on your company’s operations in the EU.

Further information is available from any of the contacts listed overleaf or your usual PwC Client Service Team contact.