

## Comments on document CCCTB/WP\001 – COMMON CONSOLIDATED CORPORATE TAX BASE WORKING GROUP – General Tax Principles

We share the view that it is important for Member States (MS) to discuss general tax principles. It is important to refer back to these principles when other, often detailed, tax provisions are discussed. The purpose of such a discussion is not to establish a formal agreed set of principles. However, we consider it crucial that the consequences of various principles on economic efficiency be emphasized. The tax principles relied upon when discussing tax bases should contribute to the achievement of the Lisbon objectives.

As a matter of fact, we would have liked to see more of a discussion on the tax obstacles that are inherent in one principle or another, and a discussion of their impact on economic efficiency under each of the areas discussed under The General Principles. Indeed, "competitiveness" is not explicitly discussed, even though it remains one of the major objectives agreed upon in Lisbon. Certain principles such as they are described, are disappointing: either because of their weakness (no reference to the non-retroactivity, no consideration of third countries), or because of their contradiction with the spirit of the objective (recurring reference to the rates harmonization, absence of simplicity), or because they may lead to adverse effects (§18 on the consistency and the coherence, the reference to the taxable latent products), or their uselessness (paragraph on the enforceability).

The paper is nevertheless useful for discussions with MS. We think it could be improved in a number of ways.

Section II. deals with General Principles for the design and assessment of tax systems. The discussion is very general and not targeted to what principles are important to achieve economic efficiency in an economic union. It is correct that inter-country equity generally is governed by bi-lateral treaties between countries but the issue of the resulting effect on economic efficiency must be addressed. The trade-offs in treaties between individual MS will typically NOT result in a tax regime that does not distort allocational decisions for various firms, sectors, owners of businesses or modes of financing.

We believe that it is necessary to write about the consequences of MS applying Capital Export Neutrality also to activities within the union and not only to third countries. Most MS emphasize the desire to have a 'neutral' tax system but the focus is typically a national one rather than a union one.

In an economic union, whether it is just a country or if it is a larger economic union consisting of many countries, it is important to try to have a tax system that does not distort investment decisions – either by distorting decisions about what type of investment or where it is allocated – or who is making the decision and financing it. If MS only have a national perspective, there is considerable risk of double taxation and misplacement of investments. We therefore think it is important to underline the desire to generally apply Capital Import Neutrality within the union.

Besides the CEN and CIN, there is CON, Capital Ownership Neutrality. It should also be discussed. Differences in the taxation of owners will impact the ownership structure. Here, the different tax levels in MS play a role, as well as imputation systems or partial inclusion systems. The tax treatment of capital gains is also important. So far, most of the academic

literature on CON has focused on the “quality” of owners. With different tax burdens, the most efficient owners may not be the actual owners and therefore the overall efficiency and growth of the economy will suffer. However, there is also another implication which MS may find particularly interesting. Since MS retain the right to tax capital owners not only at the corporate level but also at the investor level, the ownership structure will have revenue implications. Countries with high tax burden on capital income will tend to have a reduced ownership share (which could lead to reduced overall investment level in the union since the most productive owners are suppressed) and they will collect less in taxes as well. The revenue implication should be of particular importance to MS.

We believe, it would be beneficial to include this concept in the analysis. It might be helpful to have a look at a recent paper “Economic Foundations of International Tax Rules”, by Mihir A. Desai at Harvard University and NBER, and James R. Hines Jr., University of Michigan and NBER. The paper was presented at the American Tax Policy Institute in Washington D.C., December 2003.<sup>1</sup>

Furthermore, it would be desirable to discuss the risk of double taxation and the possible lack of single taxation. The area of transfer pricing is in this respect particularly important.

A reference to the Tax Survey and the high compliance costs could be made in the paper. It would be a welcome reminder to MS about the consequences for businesses applying the principles of an individual MS tax system. It also brings in the union perspective with compliance for different taxes (corporate, VAT etc) and tax administrations (legal systems).

Regarding the third section Accounting Principles of relevance for specific Tax Accounting Principles we would like to make the following brief remarks.

Since taxation is typically exercised at discrete time intervals, typically annually, while the accounting is used to present an ongoing accurate picture of the economic circumstances of the business entity, there needs to be a discussion on how the tax base must deviate from the accounts. Asymmetries in the tax systems, between the treatment of profits and losses, are another reason for adjustments. We believe that such a discussion between MS should also draw their attention to the implied restrictions in their tax codes, regarding the lack of recognition of losses, consolidation etc.

We would like to take the opportunity to thank the Commission for giving us this opportunity to express our comments and ideas on this document. We will be happy to answer any questions you may have and also to provide further input at a later stage.

On behalf of the UNICE Task Force on CCCBT

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January 22, 2005

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<sup>1</sup> There is another paper on the same topic by Krister Andersson ‘A Common Consolidated Tax Base for European Business’ (forthcoming in Svensk Skattetidning). That paper is however written in Swedish.